

AN ACT

D.C. ACT 20-305

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MARCH 31, 2014

To make the possession or transfer without remuneration of one ounce or less of marijuana a civil violation subject to a fine, to make the smoking of marijuana in public and marijuana impairment in public or on someone else's property crimes subject to fine or imprisonment, to establish the Substance Abuse Prevention and Treatment Fund, and to make technical and conforming amendments.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Marijuana Possession Decriminalization Amendment Act of 2014".

TITLE I. ONE OUNCE OR LESS OF MARIJUANA.

Sec. 101. Possession or transfer of one ounce or less of marijuana.

(a) Notwithstanding any other District law, the possession or transfer without remuneration of marijuana weighing one ounce or less shall constitute a civil violation.

(b) A violation of subsection (a) of this section shall not constitute a criminal offense or a delinquent act as defined in D.C. Official Code § 16-2301(7).

(c) The possession of paraphernalia associated with a violation of subsection (a) of this section shall not constitute a violation of section 4 of the Drug Paraphernalia Act of 1982, effective September 17, 1982 (D.C. Law 4-149; D.C. Official Code § 48-1103).

Sec. 102. Identification of offenders.

(a) A person who is stopped by a police officer for violating section 101 shall, upon request, inform the officer of his or her name and address for the purpose of including that information on a notice of violation; provided, that no person shall be required to possess or display any documentary proof of his or her name or address in order to comply with the requirements of this section.

(b) A person who refuses to provide his or her name and address, or who knowingly provides an incorrect name or address, to a police officer in violation of subsection (a) of this section shall, upon conviction, be fined \$100.

Sec. 103. Penalties.

(a) A person 18 years of age or older who commits a civil violation of section 101 shall be subject to a civil fine of \$25 and seizure of any marijuana and paraphernalia visible to the police officer at the time of the civil violation.

(b)(1) A person under the age of 18 years who commits a civil violation of section 101 shall be subject to a civil fine of \$25 and seizure of any marijuana and paraphernalia visible to the police officer at the time of the civil violation.

(2) The Office of Administrative Hearings shall mail a copy of the notice of violation to the parent or guardian of the person to whom the notice of violation is issued at the address provided by the person at the time the citation is issued pursuant to section 102.

(3) For the purposes of this subsection, the term "civil violation" shall have the same meaning as a civil Notice of Violation for the purposes of D.C. Official Code § 16-2333(a)(1A).

(c) Except as provided in this section, the District shall not request or impose any other form of penalty, sanction, forfeiture, or disqualification for violations of section 101; provided, that this subsection does not apply to District government employers if drug use is specifically prohibited as a condition of employment, nor shall this subsection apply to the Firearms Control Regulation Act of 1975, effective September 24, 1976 (D.C. Law 1-85; D.C. Official Code §7-2501.01 *et seq.*), and An Act To control the possession, sale, transfer, and use of pistols and other dangerous weapons in the District of Columbia, to provide penalties, to prescribe rules of evidence, and for other purposes, approved July 8, 1932 (47 Stat. 650; D.C. Official Code § 22-4501 *et seq.*).

Sec. 104. Substance Abuse Prevention and Treatment Fund.

(a) There is established as a special fund the Substance Abuse Prevention and Treatment Fund ("Fund"), which shall be administered by the Department of Behavioral Health in accordance with subsections (c) and (d) of this section.

(b) The Fund shall consist of revenue from the payment of fines collected pursuant to section 103.

(c) The Fund shall be used for substance abuse prevention and treatment efforts.

(d)(1) The money deposited into the Fund, and interest earned, shall not revert to the unrestricted fund balance of the General Fund at the end of a fiscal year, or at any other time.

(2) Subject to authorization in an approved budget and financial plan, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.

TITLE II. CIVIL VIOLATIONS.

Sec. 201. Adjudication.

Civil violations of section 101 shall be adjudicated by the Office of Administrative Hearings in accordance with this title.

Sec. 202. Answer to a notice of violation.

(a) A person shall answer a notice of violation within 14 calendar days of the date the notice of violation was issued.

(b)(1) To answer a notice of violation, a person issued a notice may:

(A) Admit the violation;

- (B) Admit the violation, but with an explanation; or
- (C) Deny the violation.

(2) No response other than those listed in paragraph (1) of this subsection shall be regarded as an answer.

(c) A person admitting a violation shall, at the time the person submits an answer, pay the applicable civil fine in person or by mail.

(d) A person denying the violation shall receive from the Office of Administrative Hearings within 30 days of the office's receipt of the answer a notice with information about a hearing date.

(e) If a person to whom a notice of violation has been issued fails to respond to the notice within 14 calendar days of the date the notice was issued, the person shall be found liable for the civil violation and in default and shall be assessed both the civil fine for the violation and an additional penalty equal to the amount of that civil fine.

Sec. 203. Hearing.

(a) A hearing for judging a violation of section 101 shall be held before an administrative law judge and the hearing shall be conducted accordance with Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*).

(b)(1) After due consideration of the evidence and arguments made at the hearing, the administrative law judge shall determine whether the violation has been established by a preponderance of evidence.

(2) Where a determination is made that a violation is not established, an order dismissing the violation shall be entered.

(3) Where a determination is made that the violation has been established, an appropriate order shall be entered in the records of the hearing and the administrative law judge shall order the respondent to pay the civil fine set forth in section 103.

(c) An order rendered pursuant to a determination that a violation has been established, or pursuant to the receipt of an answer admitting the violation, shall be a civil order.

(d) A person who has answered a notice of violation, but fails, without good cause, to appear at the scheduled hearing shall be found liable for the violation and in default and shall be assessed both the civil fine for the violation and an additional penalty equal to the amount of that civil fine.

(e) For the purposes of this section, the term "evidence" includes the notice of violation, a statement from a law enforcement officer on the weight of the seized marijuana, confirmation that the substance seized has tested positive as marijuana, and any records or notes made by the law enforcement officer when the marijuana was seized; provided, that the seized marijuana shall not be required to be presented at the hearing as evidence and may be destroyed as contraband by the law enforcement agency that seized it.

TITLE III. CONSUMPTION OF MARIJUANA IN PUBLIC SPACE; IMPAIRMENT

Sec. 301. Consumption of marijuana in public space prohibited; impairment prohibited.

(a) Notwithstanding any other District law, it is unlawful for any person to smoke or otherwise consume marijuana in or upon a public space, or in or upon any of the following places:

- (1) A street, alley, park, sidewalk, or parking area;
- (2) A vehicle in or upon any street, alley, park, or parking area; or
- (3) Any place to which the public is invited.

(b) No person, whether in or on public or someone else's private property, shall be impaired due to smoking or otherwise consuming marijuana and endanger the safety of himself, herself, or any other person or property.

(c) Any person violating the provisions of subsection (a) or (b) of this section shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than the amount set forth in section 101 of the Criminal Fine Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01), or imprisoned for not more than 60 days.

(d) The Attorney General for the District of Columbia, or his or her assistants, shall prosecute violations of this section, in the name of the District of Columbia.

(e) For the purposes of this section, the term "smoke" means to inhale, ingest, or otherwise introduce marijuana into the human body, or to hold or carry a lighted roll of paper or other lighted smoking equipment filled with marijuana.

TITLE IV. CONFORMING AMENDMENTS.

Sec. 401. Section 6 of the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.03), is amended by adding a new subsection (b-7) to read as follows:

"(b-7) In addition to those adjudicated cases listed in subsections (a), (b), (b-1), (b-2), (b-3), (b-4), (b-5), and (b-6) of this section, this act shall apply to all adjudications involving the imposition of a civil fine for violations of section 101 of the Marijuana Possession Decriminalization Amendment Act of 2014, passed on 2nd reading on March 4, 2014 (Enrolled version of Bill 20-409)."

Sec. 402. Section 501 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Official Code § 4-205.01), is amended as follows:

(a) Designate the existing text as subsection (a).

(b) A new subsection (b) is added to read as follows:

"(b) Notwithstanding any other provision of this title, no person shall be rendered ineligible for public assistance by reason of a civil violation of section 101 of the Marijuana Possession Decriminalization Amendment Act of 2014, passed on 2nd reading on March 4, 2014 (Enrolled version of Bill 20-409).

ENROLLED ORIGINAL

Sec. 403. Section 23-1321(c)(1)(B)(ix) of the District of Columbia Official Code is amended to read as follows:

“(ix) Refrain from excessive use of alcohol or marijuana, or any use of a narcotic drug or other controlled substance without a prescription by a licensed medical practitioner; provided, that a positive test for use of marijuana or a violation of section 101 of the Marijuana Possession Decriminalization Amendment Act of 2014, passed on 2nd reading on March 4, 2014 (Enrolled version of Bill 20-409), shall not be considered a violation of the conditions of pretrial release, unless the judicial officer expressly prohibits the use or possession of marijuana, as opposed to controlled substances generally, as a condition of pretrial release; the terms "narcotic drug" and "controlled substance" shall have the same meaning as in § 48-901.02;”.

Sec. 404. Section 4 of An Act For the establishment of a probation system for the District of Columbia, approved June 25, 1910 (36 Stat. 865; D.C. Official Code § 24-304), is amended as follows:

(a) Subsection (b) is amended by striking the phrase “If a person violates” and inserting the phrase “Except as provided in subsection (c) of this section, if a person violates” in its place.

(b) A new subsection (c) is added to read as follows:

“(c) A positive test for use of marijuana, or a violation of section 101 of the Marijuana Possession Decriminalization Amendment Act of 2014, passed on 2nd reading on March 4, 2014 (Enrolled version of Bill 20-409), shall not be considered a violation of a condition of probation unless the judicial officer expressly prohibits the use or possession of marijuana, as opposed to controlled substances generally, as a condition of probation.”.

Sec. 405. Section 4(a) of the Youth Rehabilitation Amendment Act of 1985, effective December 7, 1985 (D.C. Law 6-69; D.C. Official Code § 24-903(a)), is amended by adding a new paragraph (2A) to read as follows:

“(2A) A positive test for use of marijuana, or a violation of section 101 of the Marijuana Possession Decriminalization Amendment Act of 2014, passed on 2nd reading on March 4, 2014 (Enrolled version of Bill 20-409), shall not be considered a violation of an order of probation unless the judicial officer expressly prohibits the use or possession of marijuana, as opposed to controlled substances generally, as a condition of probation.”.

Sec. 406. Section 25-1001(d) of the District of Columbia Official Code is amended by striking the phrase “90 days” and inserting the phrase “60 days” in its place.

Sec. 407. An Act To regulate the manufacturing, dispensing, selling, and possession of narcotic drugs in the District of Columbia, approved June 20, 1938 (52 Stat. 785; D.C. Official Code § 48-921.01 *et seq.*), is amended as follows:

(a) Section 14 (D.C. Official Code § 48-921.02) is amended as follows:

(1) Subsection (a) is amended by striking the phrase “A search warrant” and inserting the phrase “Except as provided in subsection (a-1) of this section, a search warrant” in its place.

ENROLLED ORIGINAL

(2) A new subsection (a-1) is added to read as follows:

“(a-1) A search warrant shall not be issued if the sole basis for its issuance would be the possession or transfer without remuneration of marijuana weighing one ounce or less.”.

(b) A new section 14a is added to read as follows:

“ARTICULABLE SUSPICION

“Sec. 14a. (a) Except as provided in subsection (b) of this section, none of the following shall, individually or in combination with each other, constitute reasonable articulable suspicion of a crime:

“(1) The odor of marijuana or of burnt marijuana;

“(2) The possession of or the suspicion of possession of marijuana without evidence of quantity in excess of 1 ounce;

“(3) The possession of multiple containers of marijuana without evidence of quantity in excess of 1 ounce; or

“(4) The possession of marijuana in proximity to any amount of cash or currency without evidence of marijuana quantity in excess of one ounce.”.

“(b) Subsection (a) of this section shall not apply when a law enforcement officer is investigating whether a person is operating or in physical control of a vehicle or watercraft while intoxicated, under the influence of, or impaired by alcohol or a drug or any combination thereof in violation of the Anti-Drunk Driving Act of 1982, effective September 14, 1982 (D.C. Law 4-145; D.C. Official Code § 50-2206.01 *et seq.*)”.

Sec. 408. Section 401 of the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-904.01), is amended as follows:

(a) Subsection (a) is amended by striking the phrase “Except as authorized by this act or the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective February 25, 2010 (D.C. Law 13-315; 57 DCR 3360)” and inserting the phrase “Except as authorized by this act or the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective February 25, 2010 (D.C. Law 13-315; D.C. Official Code § 7-1671.01 *et seq.*), and provided in section 101 of the Marijuana Possession Decriminalization Amendment Act of 2014, passed on 2nd reading on March 4, 2014 (Enrolled version of Bill 20-409)” in its place.

(b) Subsection (d)(1) is amended by striking the phrase “except as otherwise authorized by this act or the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective February 25, 2010 (D.C. Law 13-315; 57 DCR 3360)” and inserting the phrase “except as otherwise authorized by this act or the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective February 25, 2010 (D.C. Law 13-315; D.C. Official Code § 7-1671.01 *et seq.*), and provided in section 101 of the Marijuana Possession Decriminalization Amendment Act of 2014, passed on 2nd reading on March 4, 2014 (Enrolled version of Bill 20-409)” in its place.

Sec. 409. Section 4 of the Drug Paraphernalia Act of 1982, effective September 17, 1982 (D.C. Law 4-149; D.C. Official Code § 48-1103), is amended as follows:

(a) Subsection (a) is amended by striking the phrase “Except as authorized by the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective February 25, 2010 (D.C. Law 13-315; 57 DCR 3360)” and inserting the phrase “Except as authorized by the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective February 25, 2010 (D.C. Law 13-315; D.C. Official Code § 7-1671.01 *et seq.*) and provided in section 101 of the Marijuana Possession Decriminalization Amendment Act of 2014, passed on 2nd reading on March 4, 2014 (Enrolled version of Bill 20-409)” in its place.

(b) Subsection (b) is amended by striking the phrase “Except as authorized by the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective February 25, 2010 (D.C. Law 13-315; 57 DCR 3360)” and inserting the phrase “Except as authorized by the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective February 25, 2010 (D.C. Law 13-315; D.C. Official Code § 7-1671.01 *et seq.*), and provided in section 101 of the Marijuana Possession Decriminalization Amendment Act of 2014, passed on 2nd reading on March 4, 2014 (Enrolled version of Bill 20-409)” in its place.

Sec. 410. Section 13a(a) of the District of Columbia Traffic Act, 1925, effective March 16, 1989 (D.C. Law 7-222; D.C. Official Code § 50-1403.02(a)), is amended by adding a new sentence at the end to read as follows: “For the purposes of this section, notwithstanding any other District law, a violation of section 101 of the Marijuana Possession Decriminalization Amendment Act of 2014, passed on 2nd reading on March 4, 2014 (Enrolled version of Bill 20-409), shall not constitute a drug offense.”.

Sec. 411. The Department of Youth Rehabilitation Services Establishment Act of 2004, effective April 12, 2005 (D.C. Law 15-335; D.C. Official Code § 2-1515.01 *et seq.*), is amended as follows:

(a) Section 101 (D.C. Official Code § 2-1515.01) is amended by adding a new paragraph (2A) to read as follows:

“(2A) “Community placement agreement” means an agreement between the youth and the Department of Youth Rehabilitation Services that the youth and his or her guardian will agree to certain rules in exchange for being released to the community.”.

(b) Section 105 (D.C. Official Code § 2-1515.05) is amended by adding a new subsection (h-1) to read as follows:

“(h-1) The Department shall not use a positive test for use of marijuana, or a violation of section 101 of the Marijuana Possession Decriminalization Amendment Act of 2014, passed on 2nd reading on March 4, 2014 (Enrolled version of Bill 20-409), as the basis for a change of placement, a change in treatment, or any sanction unless the Department expressly prohibits the use or possession of marijuana, as opposed to controlled substances generally, as a condition in the community placement agreement or by otherwise providing written notice to the child. A prohibition on the use or possession of marijuana shall be based upon an individual evaluation conducted pursuant to section 104(7).”.

Sec. 412. Section 16-2327 of the District of Columbia Official Code is amended by adding a new subsection (e) to read as follows:

“(e) A positive test for use of marijuana, or a violation of section 101 of the Marijuana Possession Decriminalization Amendment Act of 2014, passed on 2nd reading on March 4, 2014 (Enrolled version of Bill 20-409), shall not be considered a violation of an order of probation unless the Division expressly prohibits the use or possession of marijuana, as opposed to controlled substances generally, as a condition of probation.”.

TITLE V. RULES, EFFECTIVE DATE, AND FISCAL IMPACT STATEMENT.

Sec. 501. Rules.

The Mayor, pursuant to Title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to implement the provisions of this act.

Sec. 502. Fiscal impact statement.

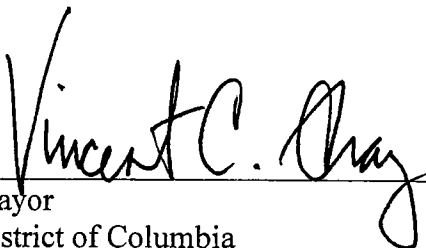
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 503. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 60-day period of Congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of Columbia Register.



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
March 31, 2014