

ENGROSSED ORIGINAL

A BILL

20-409

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To make the possession or transfer without remuneration of 1 ounce or less of marijuana a civil violation subject to a fine and to make technical and conforming amendments.

BE IT ENACTED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act 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 1 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 § 16-2301(7).

(c) ~~The use or~~ 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.

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1 Sec. 103. Possession or transfer of one ounce or less of marijuana; penalties.

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

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

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

11 (3) For purposes of this subsection, the term "civil violation" shall have the same  
12 meaning as a civil Notice of Violation for purposes of § 16-2333(a)(1A);

13 (c) Except as provided in this section, the District shall not request or impose any other  
14 form of penalty, sanction, forfeiture, or disqualification for violations of section 101; provided,  
15 that this subsection does not apply to District government employers if drug use is specifically  
16 prohibited as a condition of employment, nor shall this subsection apply to Unit A of the  
17 Firearms Control Regulation Act of 1975 (D.C. Official Code § 7-2501-7-2508.07) and D.C.  
18 Official Code § 22-4501 et seq.

19 ~~Sec. 103. Penalties:~~

20 ~~(a)(1) Except as provided in paragraph (2) of this subsection, a person 18 years or older~~  
21 ~~who commits a civil violation of section 101 shall be subject to civil fine of \$25 and seizure of~~  
22 ~~any marijuana and paraphernalia visible to the police officer at the time of the civil violation.~~

23 ~~—— (2) In lieu of the penalties provided in paragraph (1) of this subsection, any person~~  
24 ~~who commits a civil violation of section 101 by smoking marijuana on the property of, in, or on~~  
25 ~~any one of the following places shall be subject to a civil fine of \$100 and seizure of any~~  
26 ~~marijuana and paraphernalia visible to the police officer at the time of the civil violation:~~

27 ~~(A) Day care centers;~~

28 ~~(B) Schools;~~

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- ~~(C) Parks or playgrounds;~~
- ~~(D) Recreation centers or gymnasiums;~~
- ~~(E) Libraries;~~
- ~~(F) Parking lots;~~
- ~~(G) Sidewalks;~~
- ~~(H) Streets or alleys;~~
- ~~(I) Bus stops or train stations; or~~
- ~~(J) Any other place to which the public or a substantial number of the~~

~~public has access.~~

~~(b)(1) Except as provided in paragraph (3) of this subsection, a person under the age of 18 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) In lieu of the penalties provided in paragraph (1) of this subsection, any person under the age of 18 who commits a civil violation of section 101 by smoking marijuana on the property of, in, or on any one of the following places shall be subject to a civil fine of \$100 and seizure of any marijuana and paraphernalia visible to the police officer at the time of the civil violation:~~

- ~~(A) Day care centers;~~
- ~~(B) Schools;~~
- ~~(C) Parks or playgrounds;~~
- ~~(D) Recreation centers or gymnasiums;~~
- ~~(E) Libraries;~~
- ~~(F) Parking lots;~~
- ~~(G) Sidewalks;~~
- ~~(H) Streets or alleys;~~

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1 ~~(I) Bus stops or train stations; or~~

2 ~~(J) Any other place to which the public or a substantial number of the~~

3 ~~public has access.~~

4 ~~(4) For purposes of this subsection, the term “civil violation” shall have the same~~  
5 ~~meaning as a civil Notice of Violation for purposes of § 16-2333(a)(1A);~~

6 ~~(c) Except as provided in this section, the District shall not request or impose any other~~  
7 ~~form of penalty, sanction, forfeiture, or disqualification for violations of section 101; provided,~~  
8 ~~that this subsection does not apply to District government employers if drug use is specifically~~  
9 ~~prohibited as a condition of employment.~~

10 ~~—— (d) For purposes of this section, the term “smoking” means the act of inhaling, ingesting,~~  
11 ~~or otherwise introducing marijuana into the human body or holding or carrying a lighted roll of~~  
12 ~~paper or other lighted smoking equipment filled with marijuana.~~

13 Sec. 104. Consumption of marijuana in public space prohibited; impairment prohibited.

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

17 (1) A street, alley, park, sidewalk, or parking area;

18 (2) A vehicle in or upon any street, alley, park, or parking area; or;

19 (3) Any place to which the public is invited.

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

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

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

4        Sec. 105. Substance Abuse Prevention and Treatment Fund.

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

8        (b) The Fund shall consist of revenue from the payment of fines pursuant to section 103  
9 of this act.

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

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

13       (2) Subject to authorization by Congress, any funds appropriated in the Fund  
14 shall be continually available without regard to fiscal year limitation.

15       TITLE II. CIVIL VIOLATIONS.

16       Sec. 201. Adjudication.

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

19       Sec. 202. Answer to a notice of violation.

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

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

23                (A) Admit the violation;

24                (B) Admit the violation, but with an explanation; or

25                (C) Deny the violation.

26        (2) Except as provided in subsection (c) of this section, no response other than  
27 those listed in paragraph (1) of this subsection shall be regarded as an answer.

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

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

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

9 Sec. 203. Hearing.

10 (a) A hearing for judging a violation of section 101 shall be held before an administrative  
11 law judge and the hearing shall be conducted accordance with subchapter I of Chapter 5 of Title  
12 2.

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

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

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

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

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

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1 TITLE III-CONFORMING AMENDMENTS

2 Sec. 301. Section 6 of the Office of Administrative Hearings Establishment Act of 2001,  
3 effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.03), is amended by  
4 adding a new subsection (b-7) to read as follows:

5 “(b-7) In addition to those adjudicated cases listed in subsections (a), (b), (b-1), (b-2), (b-  
6 3), (b-4), (b-5), and (b-6) of this section, this act shall apply to all adjudications involving the  
7 imposition of a civil fine for violations of section 101 of the Marijuana Possession  
8 Decriminalization Amendment Act of 2014, as approved by the Committee on Judiciary and  
9 Public Safety on January 15, 2014 (Bill 20-409).”.

10 Sec. 302. District of Columbia Public Assistance Act of 1982, effective April 6, 1982  
11 (D.C. Law 4-101; D.C. Official Code § 4-201.01 *et seq.*), is amended by adding a new section  
12 501a to read as follows:

13 “Sec. 501a. Notwithstanding any other provision of this title, no person shall be rendered  
14 ineligible for public assistance by reason of a civil violation of section 101 of the Marijuana  
15 Possession Decriminalization Amendment Act of 2014, as approved by the Committee on  
16 Judiciary and Public Safety on January 15, 2014 (Bill 20-409).

17 Sec. 303. Section 23-1321(c)(1)(B)(ix) of the District of Columbia Official Code is  
18 amended to read as follows:

19 “(ix) Refrain from excessive use of alcohol or marijuana, or any use of a narcotic drug or  
20 other controlled substance without a prescription by a licensed medical practitioner; provided,  
21 that a positive test for use of marijuana or a violation of section 101 of the Marijuana Possession  
22 Decriminalization Amendment Act of 2014, as approved by the Committee on Judiciary and  
23 Public Safety on January 15, 2014 (Bill 20-409), shall not be considered a violation of the  
24 conditions of pretrial release, unless the judicial officer expressly prohibits the use or possession  
25 of marijuana, as opposed to controlled substances generally, as a condition of pretrial release; the  
26 terms "narcotic drug" and "controlled substance" shall have the same meaning as in section 101  
27 of the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5,  
28 1981, (D.C. Law 4-29; D.C. Official Code § 48-901.02);

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

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

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

7           “(c) A positive test for use of marijuana, or a violation of section 101 of the Marijuana  
8 Possession Decriminalization Amendment Act of 2014, as approved by the Committee on  
9 Judiciary and Public Safety on January 15, 2014 (Bill 20-409), shall not be considered a  
10 violation of a condition of probation unless the judicial officer expressly prohibits the use or  
11 possession of marijuana, as opposed to controlled substances generally, as a condition of  
12 probation.”.

13           Sec. 305. Section 4(a)(1) of the Youth Rehabilitation Amendment Act of 1985, effective  
14 December 7, 1985 (D.C. Law 6-69; D.C. Official Code § 24-903), is amended by adding a new  
15 paragraph (2A) to read as follows:

16           “(2A) A positive test for use of marijuana, or a violation of section 101 of the  
17 Marijuana Possession Decriminalization Amendment Act of 2014, as approved by the  
18 Committee on Judiciary and Public Safety on January 15, 2014 (Bill 20-409), shall not be  
19 considered a violation of an order of probation unless the judicial officer expressly prohibits the  
20 use or possession of marijuana, as opposed to controlled substances generally, as a condition of  
21 probation.”.

22           Sec. 305a. Section 25-1001(d) of the District of Columbia Official Code is amended by  
23 striking the phrase “90 days” and inserting the phrase “60 days” in its place.

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24           Sec. 306. An Act to regulate the manufacturing, dispensing, selling, and possession of  
25 narcotic drugs in the District of Columbia, approved June 20, 1938 (52 Stat. 785; D.C. Official  
26 Code § 48-921.01 *et seq.*), is amended as follows:

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

28           (1) Subsection (a) is amended by striking the phrase “A search warrant” and



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1 inserting the phrase “Except as provided in subsection (a-1) of this section, a search warrant” in  
2 its place.

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

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

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

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

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

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

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

15 (4) The possession of marijuana without evidence of quantity in excess of 1 ounce  
16 in proximity to any amount of cash or currency.”.

17 (b) Subsection (a) shall not apply when a law enforcement officer is investigating  
18 whether a person is operating or in physical control of a vehicle or watercraft while intoxicated,  
19 under the influence of, or impaired by alcohol or a drug or any combination thereof in violation  
20 of the Anti-Drunk Driving Act of 1982, effective September 14, 1982 (D.C. Law 4-145; D.C.  
21 Official Code § 50-2206.01 et seq.) “Sec. 14a. None of the following shall, individually or in  
22 combination with each other, constitute reasonable articulable suspicion of a crime:

23 (a) The odor of marijuana or of burnt marijuana;

24 (b) The possession of or the suspicion of possession of marijuana without evidence of  
25 quantity in excess of 1 ounce;

26 (c) The possession of multiple containers of marijuana without evidence of quantity in  
27 excess of 1 ounce; or

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1           ~~(d) The possession of marijuana without evidence of quantity in excess of 1 ounce in~~  
2 ~~proximity to any amount of cash or currency.”.~~

3           Sec. 307. Section 401 of the District of Columbia Controlled Substances Act of 1981,  
4 effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-904.01), is amended as  
5 follows:

6           (a) Subsection (a) is amended by striking the phrase “Except as authorized by this  
7 chapter or Chapter 16B of Title 7 [§ 7-1671 *et seq.*]” and inserting the phrase “Except as  
8 authorized by this chapter or Chapter 16B of Title 7 [§7-1671.01 *et seq.*] and provided in section  
9 101 of the Marijuana Possession Decriminalization Act of 2014, as approved by the Committee  
10 on Judiciary and Public Safety on January 15, 2014 (Bill 20-409)” in its place.

11           (b) Subsection (d)(1) is amended by striking the phrase “except as otherwise authorized  
12 by this chapter or Chapter 16B of Title 7 [§ 7-1671 *et seq.*]” and inserting the phrase “except as  
13 otherwise authorized by this chapter or Chapter 16B of Title 7 [§ 7-1671 *et seq.*] and provided in  
14 section 101 of the Marijuana Possession Decriminalization Act of 2014, as approved by the  
15 Committee on Judiciary and Public Safety on January 15, 2014 (Bill 20-409)” in its place.

16           Sec. 308. Section 4 of the Drug Paraphernalia Act of 1982, effective September 17, 1982  
17 (D.C. Law 4-149; D.C. Official Code 48-1103), is amended as follows:

18           (a) Subsection (a) is amended by striking the phrase “Except as authorized by Chapter  
19 16B of Title 7 [§7-1671.01 *et seq.*]” and inserting the phrase “Except as authorized by Chapter  
20 16B of Title 7 [§7-1671.01 *et seq.*] and provided in section 101 of the Marijuana Possession  
21 Decriminalization Amendment Act of 2014, as approved by the Committee on Judiciary and  
22 Public Safety on January 15, 2014 (Bill 20-409)” in its place.

23           (b) Subsection (b) is amended by striking the phrase “Except as authorized by Chapter  
24 16B of Title 7 [§7-1671.01 *et seq.*]” and inserting the phrase “Except as authorized by Chapter  
25 16B of Title 7 [§7-1671.01 *et seq.*] and provided in section 101 of the Marijuana Possession  
26 Decriminalization Amendment Act of 2014, as approved by the Committee on Judiciary and  
27 Public Safety on January 15, 2014 (Bill 20-409)” in its place.

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1           Sec. 309. Section 13a(a) of the District of Columbia Traffic Act, 1925, approved March  
2 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-1403.02), is amended by adding a new sentence  
3 at the end to read as follows: “For purposes of this section, notwithstanding any other District  
4 law, a violation of section 101 of the Marijuana Possession Decriminalization Amendment Act  
5 of 2014, as approved by the Committee on Judiciary and Public Safety on January 15, 2014 (Bill  
6 20-409), shall not constitute a drug offense.”.

7           Sec. 310. Section 101 of the Department of Youth Rehabilitation Services Establishment  
8 Act of 2004, effective April 12, 2005 (D.C. Law 15-335; D.C. Official Code § 2-1515.01 *et seq.*),  
9 is amended as follows:

10           (a) Section 101 (D.C. Official Code § 2-1515.01) is amended by adding a new paragraph  
11 (2A) to read as follows:

12           “(2A) "Community Placement Agreement" means an agreement between the  
13 youth and the Department of Youth Rehabilitation Services, that the youth and his or her  
14 guardian will agree to certain rules in exchange for being released to the community.”.

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

17           “(h-1) The Department shall not use a positive test for use of marijuana, or a violation of  
18 section 101 of the Marijuana Possession Decriminalization Amendment Act of 2014, as  
19 approved by the Committee on Judiciary and Public Safety on January 15, 2014 (Bill 20-409), as  
20 the basis for a change of placement, a change in treatment, or any sanction unless the Department  
21 expressly prohibits the use or possession of marijuana, as opposed to controlled substances  
22 generally, as a condition in the community placement agreement or by otherwise providing  
23 written notice to the child. Such prohibition shall be based upon an individual evaluation  
24 conducted pursuant to D.C. Code § 2-1515.04 (7).”.

25           Sec. 311. Section 121(a) of the District of Columbia Court Reform and Criminal  
26 Procedure Act, approved July 29, 1970 (84 Stat. 538; D.C. Official Code § 16-2327), is amended  
27 to read as follows:

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1       “(e) A positive test for use of marijuana, or a violation of section 101 of the Marijuana  
2 Possession Decriminalization Amendment Act of 2014, as approved by the Committee on  
3 Judiciary and Public Safety on January 15, 2014 (Bill 20-409), shall not be considered a  
4 violation of an order of probation unless the Division expressly prohibits the use or possession of  
5 marijuana, as opposed to controlled substances generally, as a condition of probation.”

6       TITLE IV. RULES, EFFECTIVE DATE, AND FISCAL IMPACT STATEMENT.

7       Sec. 401. Rules.

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

11       Sec. 402. Fiscal impact statement.

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

15       Sec. 403. Effective date.

16       This act shall take effect following approval by the Mayor (or in the event of veto by the  
17 Mayor, action by the Council to override the veto), a 60-day period of Congressional review as  
18 provided in section 602(c)(1) of the District of Columbia approved December 24, 1973 (87 Stat.  
19 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of Columbia Register.

20