



Legislation Details (With Text)

File #: 2016-0231 **Version:** 1

Type: Ordinance **Status:** Passed Finally

File created: 3/18/2016 **In control:** Committee on Public Safety Services

On agenda: 3/22/2016 **Final action:** 4/5/2016

Enactment date: 4/5/2016 **Enactment #:** 9

Effective date: 4/7/2016

Title: Ordinance amending Title 6: Conduct, Article 1: Regulated Rights and Actions by adding section 626 627 providing for the assessment of a civil fine for the possession of small amounts of cannabis in the certain defined conduct in the City of Pittsburgh under certain terms and conditions.

Sponsors: R. Daniel Lavelle

Indexes: PGH. CODE ORDINANCES TITLE 06 - CONDUCT

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
4/7/2016	1	Mayor	Signed by the Mayor	
4/5/2016	1	City Council	Passed Finally	Pass
3/30/2016	1	Standing Committees	AFFIRMATIVELY RECOMMENDED	Pass
3/22/2016	1	City Council	Read and referred	

Ordinance amending Title 6: Conduct, Article 1: Regulated Rights and Actions by adding section ~~626~~ 627 providing for the assessment of a civil fine for the possession of small amounts of cannabis in the certain defined conduct in the City of Pittsburgh under certain terms and conditions.

WHEREAS, in Pittsburgh approximately 1,000 individuals are charged annually with possessing a “small amount” of marijuana, defined as 30 grams or less of marijuana possessed for personal use. Police officers are required to appear for a Court hearing in every case where possession of a “small amount” is charged; and

WHEREAS, the City of Pittsburgh Police Department and the Office of the District Attorney of Allegheny County have regularly and routinely reduced all “small amount”/minor marijuana possession charges to a summary offense with the payment of a fine; and

WHEREAS, merely being charged with a controlled substances violation can result in the loss of employment and housing opportunities, especially public housing opportunities; and

WHEREAS, a growing number of States and Cities have recently passed laws as it pertains to the decriminalization of small amounts of marijuana possessed for non-medical personal use. In 2012 the City of Chicago moved to decriminalize small amounts allowing police to issue tickets instead of making an arrest. In 2014 Washington D.C. passed a similar ordinance providing for a \$25.00 fine for possession of a small amount; and

WHEREAS, the expungement procedure is lengthy and financially burdensome. Failure to properly expunge a

cannabis possessory offense will result in said offense remaining on a person’s criminal history despite the charge having been resolved as a summary **offense**; and

WHEREAS, racial minorities in the City of Pittsburgh, predominantly black males, are charged with minor possessory offenses five times more often than their white colleagues despite similar rates of usage; and

WHEREAS, the City of Pittsburgh Police have limited resources that should not be utilized for the enforcement of minor cannabis possessory offenses; and

WHEREAS, The City of Pittsburgh should continue to determine its cannabis policies locally. Many recreational cannabis consumers are productive citizens for whom even a controlled substances offense can result in loss of employment, housing and other collateral consequences. Making cannabis possessory offense the lowest law enforcement priority will reduce law enforcement expenditures and permit limited resources to be focused on more serious violent crimes; and

WHEREAS, Consistent with the foregoing it is the intent of the City of Pittsburgh that the City of Pittsburgh Police shall **should** not use the mere odor of marijuana to unreasonably detain an individual or seek entry to a private residence. The City of Pittsburgh Police Department is hereby directed to enact policies consistent with the intent of City Council within sixty (60) days of the effective date of this Ordinance.

WHEREAS, this Ordinance is consistent with the “small amount” section of the Controlled Substances Act in that it assesses a penalty for the possession of cannabis as same remains illegal under **Federal and** Pennsylvania law.

WHEREAS, it is the hope of the citizens of Pittsburgh that the Federal and Pennsylvania State governments will change the laws and to tax and regulate cannabis, so as to eliminate costs and problems caused by prohibition, open access to cannabis treatment for patients for whom their physician deems access a wise necessity, keep cannabis off of the streets and away from children, and raise tax revenues for vital public services; now, therefore,

THE COUNCIL OF THE CITY OF PITTSBURGH HEREBY ORDAINS:

Article 8, Title 6, Article 1 of the Pittsburgh City Code is hereby amended as follows:

Section ~~626~~ 627 - Marijuana Possession Procedure

626.01 627.01 Definitions

- a. “Marijuana” or “Marihuana” means all form of/or varieties of the genus Cannabis Sativa L., whether growing or not, as defined by Pennsylvania’s “Controlled Substance, Drug, Device and Cosmetics Act” as set forth at 35 Pa.C.S.A. §§780-101, *et seq.*
- b. “Public Space” means a street, park, sidewalk, a vehicle in or upon any street, alley, park or parking area, or any other place to which the public is invited.
- c. “Small amount of Marijuana” means 30 grams or less of Marijuana or 8 grams or less of hashish as set forth in 35 Pa.C.S.A. §780-113(a)(31).
- d. “Smoking” means inhaling, exhaling, burning or carrying any lighted cigar, cigarette,

pipe or other such device which contains marijuana. "Smoking" includes devices designed to vaporize marijuana or marijuana extracts.

626.02 ~~627.02~~ Possession or Smoking of a Small Amount of Marijuana

- a. So long as marijuana shall be listed as a controlled substance in "The Controlled Substance, Drug, Device and Cosmetic Act," 1972, April 14, P.L. 233, No. 64, § 1 et seq., 35 P.S. § 780-101 et seq., no person shall be in possession of a small amount of marijuana as defined in said act.
- b. The following shall be a ~~civil~~ **summary** violation of this Section:
 - a. (a) Possessing a small amount of marijuana.
 - b. (b) Smoking a small amount of marijuana in any public space.
- c. Persons who are found in violation of this Section shall be issued a Notice of Violation by the police or other authorized law enforcement officer. Alternatively, the officer can obtain the subject's name and address and later send a Notice of Violation by First Class Mail.
- d. The parent or guardian of a minor under the age of eighteen (18) years who violates this Section 10-2102 shall also be in violation of this Section. The officer who observes a violation of this Section by a minor shall:
 - i. Temporarily detain the minor and follow all existing procedures for the handling of summary offenses committed by a minor;
 - ii. Advise the parent or guardian that the minor was found in possession of a small amount of marijuana;
 - iii. Issue a Notice of Violation to the minor and to the parent or guardian, and advise the parent or guardian that he or she is responsible for the payment of the violation fine; and
 - iv. Provide the parent or guardian with contact information for the Allegheny County Department of Human Services or similar agency where substance abuse educational and treatment programs are available.
- e. Penalties.
 - i. (a) The penalty for a violation of subsection (2)(a) of this Section by an adult or minor under the age of eighteen (18) shall be a ~~civil~~ fine of twenty-five dollars (\$25.00) for each violation.
 - ii. (b) The penalty for a violation of subsection (2)(b) by an adult or minor under the age of eighteen (18) shall be a ~~civil~~ fine of one hundred dollars (\$100.00) for each violation. The court may, in its discretion, suspend the fine imposed under this subsection (5)(b) if the person found ~~liable~~ **guilty** agrees to and does in fact perform such community service as the court deems appropriate, up to nine hours.

f. Enforcement.

i. A Notice of Violation issued under this Chapter ~~626.01~~ 627.01, *et seq.*, shall be enforced in accordance with the procedures established by the Police Department for enforcement of summary violations.

ii. This Chapter shall not be construed to supersede any existing Pennsylvania or Federal law. Pittsburgh police officers retain the authority to enforce any applicable laws and it is Council's intent that police officers may undertake custodial arrests where there is probable cause to believe that a criminal offense other than simple possession of a small amount of marijuana has been or is being committed.