

  
Chairman Phil Mendelson

**AN AMENDMENT**  
**BILL 20-409, "MARIJUANA POSSESSION DECRIMINALIZATION AMENDMENT ACT OF 2014"**  
**(COMMITTEE PRINT)**  
**FEBRUARY 4, 2014**

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**AMENDMENT (1): Section 101; Page 1, Line 22:**

1 Strike the phrase "use or".

**AMENDMENT (2): Section 103; Pages 2 Line 1 through Page 3 Line 19:**

2 Section 103 is amended to read as follows:

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

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

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

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

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

**AMENDMENT (3): Section 103; Page 3 Line 19:**

20 A new section 104 is added to read as follows:

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

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

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

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

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

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

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

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

**AMENDMENT (4):   Section 305; Page 6, Line 17:**

14           A new section 305a is inserted to read as follows:

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

**RATIONALE:**

This amendment would penalize the public use of marijuana in a manner consistent with how the District treats possession of an open container of alcohol (POCA)—a misdemeanor under District law (D.C. Code § 25-1001). As has been discussed, and as the title of the Committee Print suggests, the underlying legislation is about decriminalizing *possession* of small amounts of marijuana. The above amendment does not change this, but does address the open *use* of the drug in public. Mirroring how public use of alcohol is treated, the above creates a penalty of up to 60 days incarceration and/or a \$500 fine. The amendment also mirrors the public intoxication statute, retaining the same penalty for public impairment from marijuana use if a person is a danger to him or herself, or other persons or property. (Amendment No. 3). Currently, the maximum incarceration period for POCA is 90 days. To make this penalty consistent with the penalty for public use of marijuana, this amendment reduces the penalty for POCA to 60 days. (Amendment No. 4). Other conforming amendments remove language in the Committee Print that created a civil fine of \$100 in certain enumerated areas of public space (Amendment No. 2).

Elsewhere in the Committee Print is a provision stating that the odor of marijuana alone is insufficient to establish “reasonable articulable suspicion” of a crime. (See section 306 of the Committee Print). The above amendment does not modify this provision. That is, although this amendment establishes a criminal penalty for public use of marijuana, the smell of marijuana, by itself, would not provide grounds for law enforcement to stop and/or search an individual. This concern received considerable attention in the Committee Report on Bill 20-409, and the proposed amendment does not seek to undo that which the Committee sought to do. As the Committee noted, an officer must have additional evidence before reasonably believing an individual has committed a crime—including the offense established by section 104 above.

**COUNCIL OF THE DISTRICT OF COLUMBIA**  
**Office of the Budget Director**



**Jennifer Budoff**  
Budget Director

**FISCAL IMPACT STATEMENT**

**TO:** The Honorable Phil Mendelson  
Chairman, Council of the District of Columbia

**FROM:** Jennifer Budoff, Budget Director *Jennifer Budoff*

**DATE:** February 3, 2014

**SHORT TITLE:** Bill 20-409, "Marijuana Possession Decriminalization Amendment Act of 2014"

**TYPE:** Amendment

**REQUESTED BY:** Chairman Phil Mendelson

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**Conclusion**

This amendment will not have an adverse impact on the District's budget and financial plan because there is no cost associated with the amendment.

**Background**

This amendment retains the underlying bill's civil penalty for possession of small amounts of marijuana, but would make the public smoking or consumption of marijuana a misdemeanor, with treatment similar to the offense of possession of an open container of alcohol ("POCA"). The amendment also creates a new misdemeanor that prohibits any person from being impaired due to marijuana use, whether in public or private, and endangering the safety of any person or property. The penalty for either offense established by this amendment would be incarceration for no more than 60 days or a \$500 fine, or both.<sup>1</sup>

**Analysis of Impact on Spending**

This amendment will not adversely impact spending.

**Analysis of Impact on Revenue**

This amendment will not adversely impact revenue.

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<sup>1</sup> The amendment also includes a provision that would reduce the existing maximum period of incarceration for POCA from 90 days to 60 days.