



Legislation Text

File #: 201518, **Version:** 0

..Number
201518
ORIGINAL
ALD. LEWIS

An ordinance relating to the penalty for possession and use of marijuana.

106-38-3 rc

This ordinance reduces the penalty for possession of up to 25 grams of marijuana from 0 - \$50 to \$1. In addition, the ordinance reduces the penalty for smoking marijuana in public from not less than \$250 and not more than \$500, to not more than \$1. It further repeals imprisonment as a penalty for default of payment. The ordinance also repeals community service and substance abuse education as options in lieu of payment of forfeiture.

Whereas, Section 106-38, "Possession Marijuana," of the Milwaukee Code of Ordinances prohibits the possession of and use of marijuana; and

Whereas, Currently, s. 106-38-3-a-1 provides that possession of marijuana shall result in a forfeiture of not less than \$0 nor more than \$50, or, in default of payment, may result in imprisonment as provided by law; and

Whereas, Section 106-38-3-a-2 provides that use of marijuana shall result in result in a forfeiture of not less than \$250 nor more than \$500, or, in default of payment, may result in imprisonment as provided by law; and

Whereas, Section, 106-38-3-b provides that community service and substance abuse education may be used in lieu of payment of forfeiture; and

Whereas, According to the Wisconsin Policy Forum report "Marijuana In Milwaukee," these fines are subject to additional fees, such as clerk fees, jail assessment fees, and state crime lab fees, resulting in total maximum forfeiture of \$124 for possession and \$691 for marijuana use; and

Whereas, According to this report, in 2015, the Police Department could have saved \$141,000 and 3,040 hours of officer time if officers had issued citations, rather than arresting, low-level, nonviolent marijuana users; and

Whereas, In April 2020, the American Civil Liberties Union released a report, "A Tale of Two Countries: Racially Targeted Arrests in the Era of Marijuana Reform," which found that Black people are 3.64 times more likely than white people to be arrested for marijuana possession, despite similar usage rates; and

Whereas, The report also found that, even in states that had legalized or decriminalized marijuana possession, Black people were still more likely to be arrested for possession than white people; and

Whereas, The Wisconsin chapter of the American Civil Liberties Union found that Black Wisconsinites were 4.2 times more likely to be arrested for marijuana possession than white Wisconsinites and that Wisconsin ranks 14th in the country for largest racial disparities in marijuana possession arrests; and

Whereas, Wisconsin was one of 17 states that saw an increase in marijuana possession arrests from 2010 to 2018, despite a growing consensus around decriminalization and legalization; and

Whereas, Wisconsin's marijuana laws are less progressive than neighboring states, including Michigan and Illinois, which have both legalized marijuana use for adults, and Minnesota, which has a medical marijuana program; and

Whereas, The Marijuana Policy Project reported that Wisconsin is only one of 19 states that imposes jail time on simple marijuana possession (s. 961.41(3g) and 961.495, Wis. Stats.) and only one of 14 states that do not have compassionate medical cannabis laws; and

Whereas, Because s. 106-38 of the Code of Ordinances only applies to violations of 25 grams or less of marijuana, law enforcement is still able to issue state citations, if needed, for possession of larger amounts of marijuana; and

Whereas, Some individuals may not be able to afford the fine and fees associated with a marijuana possession citation, which, under the Code or Ordinances, may result in imprisonment; and

Whereas, The Common Council supports Milwaukee County's efforts to change existing marijuana ordinances to achieve greater racial equity; and

Whereas, The Common Council supports the efforts of Wisconsin Governor Tony Evers to legalize marijuana in the State of Wisconsin; and

Whereas, The Common Council supports the achievement of racial equity through the reduction of penalties for possession and use of marijuana; now, therefore

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 106-38-3 of the code is repealed and recreated to read:

106-38. Possession of Marijuana.

3. PENALTY. Any person violating this section shall upon conviction forfeit no more than \$1.

APPROVED AS TO FORM

Date: _____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFOCEABLE

Office of the City Attorney

Date: _____

LRB 176562

Christopher H. Hillard