



Legislation Text

File #: 201609, Version: 2

201609

SUBSTITUTE 2

ALD. LEWIS, DIMITRIJEVIC DODD, ZAMARRIPA

A substitute ordinance relating to possession of marijuana and marijuana-related paraphernalia.

- 106-36-1-g rp
- 106-36-1-k-0 rc
- 106-36-1-k-1 rp
- 106-36-1-k-2 rp
- 106-36-1-k-3 rp
- 106-36-1-k-4 rp
- 106-36-1-k-5 rp
- 106-36-1-k-6 rp
- 106-36-1-k-7 rp
- 106-36-1-k-8 rp
- 106-36-1-k-9 rp
- 106-36-1-k-10 rp
- 106-36-1-k-11 rp
- 106-36-1-k-12 rp
- 106-36-1-k-13 rp
- 106-38 rc

This ordinance removes references to marijuana-related paraphernalia from the code. In addition, the ordinance prohibits possession of marijuana by a person:

1. Without a valid prescription from a practitioner as defined by state law.
2. Under the age of 18.
3. With greater than 28 grams of marijuana.
4. Within 1,000 feet of a school.
5. Inside a school bus.

The ordinance also changes the penalty for possession of marijuana from \$0 - \$50 to no more than \$100. Finally, the ordinance repeals the penalty for smoking marijuana in public as well as imprisonment for default of payment thereof.

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

Part 1. Section 106-36-1-g of the code is repealed.

Part 2. Section 106-36-1-k-0 of the code is repealed and recreated to read:

**106-36. Drug Paraphernalia.**

**1. DEFINITION.**

k. Objects used intended for use or designed for use in ingesting, inhaling or otherwise introducing cocaine into the human body.

Part 3. Section 106-36-1-k-1 to 13 of the code is repealed.

Part 4. Section 106-38 of the code is repealed and recreated to read:

**106-38 Possession of Marijuana.**

1. DEFINITIONS. In this section, "marijuana" and "practitioner" shall be defined as in s. 961.01(14) and (19), Wis. Stats., respectively.
2. POWER OF MUNICIPALITIES TO PROHIBIT POSSESSION OF MARIJUANA. In accordance with s. 66.0107(1)(bm), Wis. Stats., if a complaint is issued regarding an allegation of possession of more than 28 grams of marijuana, or possession of any amount of marijuana following a conviction in this state for possession of marijuana, the subject of the complaint may not be prosecuted under this section for the same action that is the subject of the complaint unless the charges are dismissed or the district attorney declines to prosecute the case.
3. POSSESSION. Unless obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, it is unlawful to possess marijuana by a person:
  - a. Who is under the age of 18.
  - b. In excess of 28 grams.
  - c. Within 1,000 feet of the premises of a school.
  - d. Inside a school bus.
4. PENALTY. Any person violating this section shall upon conviction:
  - a. Forfeit not more than \$100.
  - b. Be permitted to perform community service work and attend substance abuse education and counseling in lieu of payment of the forfeiture under par. a.

APPROVED AS TO FORM

\_\_\_\_\_  
Legislative Reference Bureau  
Date:\_\_\_\_\_

IT IS OUR OPINION THAT THE ORDINANCE  
IS LEGAL AND ENFOCEABLE

\_\_\_\_\_  
Office of the City Attorney  
Date:\_\_\_\_\_

LRB 176622-3  
Christopher H. Hillard  
6/22/2021