



Legislation Text

File #: 2032-2019, **Version:** 2

BACKGROUND

The purpose of this ordinance is to enact new sections 2329.15 and 2329.16 in the Columbus City Codes, establishing offenses and criminal penalties for the possession of marihuana and associated paraphernalia in the City of Columbus. These provisions in the General Offenses Code (Title 23) will mirror the language for the offenses of possession in the Ohio Revised Code (ORC), with the main exception of the criminal penalties associated with the offenses.

For the past year, Columbus City Council has researched this issue and performed outreach to many external stakeholders on the issue of marihuana possession and its associated effect on criminal justice, especially on people of color and younger residents. Given the racial inequities that exist with enforcement of marihuana laws locally and nationwide, the recent legalization of medical marihuana in the State of Ohio, and the number of recent ballot initiatives and ordinances liberalizing marihuana laws in municipalities such as Toledo, Dayton, and Cincinnati, Council has determined that the potential penalties for misdemeanor marijuana possession should be lowered from the standard set in the ORC. This ordinance has three central components:

- Introducing possession of marihuana and associated paraphernalia as a criminal offense in the Columbus City Codes, so as to alter the potential penalties from the ORC
- Establishing the following penalties for possession of marihuana and paraphernalia as follows:
 - o Marihuana possession under one hundred (100) grams; paraphernalia - Minor misdemeanor with a fine not exceeding ten dollars (\$10.00)
 - o Marihuana possession at one hundred (100) or above but less than two hundred (200) grams - Minor misdemeanor with a fine not exceeding twenty-five dollars (\$25.00)
- Mirroring state language for minor misdemeanors stating that offenders do not have to report a violation of these offenses as a criminal record in response to inquiries from potential employers and professional licensing boards.

This ordinance will further the City's efforts to address criminal penalties that have disproportionate effects on communities of color in Columbus.

To enact new sections 2329.15 and 2329.16 in the Columbus City Codes, establishing offenses and criminal penalties concerning misdemeanor possession of marihuana and associated paraphernalia in the City of Columbus.

WHEREAS, Title 23 of the Columbus City Codes pertains to general offenses; and

WHEREAS, Columbus City Council has researched and performed outreach on the subject of marihuana possession and the racial disparities in the enforcement and charging of these crimes; and

WHEREAS, the State of Ohio legalized the use of medical marihuana in 2016, with the first dispensaries opening in 2019; and

WHEREAS, since 2015, several Ohio municipalities have passed ballot initiatives or city ordinances that lower the

criminal penalties for marihuana possession; and

WHEREAS, this Council has determined that it is necessary to introduce marihuana possession into the Columbus City Codes, in order to lower the penalties for misdemeanor possession from the current state levels; and

WHEREAS, this ordinance will further the City's efforts to address criminal penalties that have disproportionate effect on communities of color, ensuring the health, safety and welfare of all Columbus residents; now, therefore

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

SECTION 1. That new sections 2329.15 and 2329.16 of the Columbus City Codes are hereby enacted, reading as follows:

2329.15 - Illegal possession of marihuana.

(A) No person shall knowingly obtain, possess, or use marihuana or a compound, mixture, preparation, or substance containing marihuana.

(B) This section does not apply to any of the following:

(1) Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct was in accordance with chapters 3719, 4715, 4723, 4729, 4730, 4731, and 4741 of the Ohio Revised Code;

(2) Any person who obtained the marihuana pursuant to a lawful prescription issued by a licensed health professional authorized to prescribe drugs-, **or any person who lawfully obtains, possesses, or uses medical marihuana as authorized by chapter 3796 of the Ohio Revised Code or rules adopted thereunder.**

(C) Penalties

Any person who violates division (A) of this section is guilty of possession of marihuana. The penalty for the offense shall be determined as follows:

(1) If the amount of the drug is less than one hundred (100) grams, possession of marihuana is a minor misdemeanor, and shall be punished by a fine not exceeding \$10.00.

(2) If the amount of the drug is equal to or exceeds one hundred (100) grams but is less than two hundred (200) grams, possession of marihuana is a minor misdemeanor, and shall be punished by a fine not exceeding \$25.00.

(3) If the amount of the drug equals or exceeds two hundred (200) grams, possession of marihuana constitutes a felony violation to be prosecuted under the Ohio Revised Code, chapter 2925.

(D) Arrest or conviction for a minor misdemeanor violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record, including any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.

(E) "Marihuana," "drug," "manufacturer," "licensed health professional," "pharmacist," and "pharmacy" have the same meaning as in sections 3715.01, 3719.01, and 4729.01 of the Ohio Revised Code.

2329.16 - Illegal use or possession of marihuana paraphernalia.

(A) No person shall knowingly use, or possess with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body marihuana.

(B) Any person who violates division (A) of this section is guilty of illegal use or possession of marihuana drug paraphernalia, a minor misdemeanor, and shall be punished by a fine not exceeding \$10.00.

(C) This section does not apply to any person identified in division 2329.15(B) of the Columbus City Codes, and it shall not be construed to prohibit the possession or use of a hypodermic as authorized by section 3719.172 of the Ohio Revised Code.

(D) "Drug paraphernalia" has the same meaning as in section 2925.14 of the Ohio Revised Code.

(E) In determining if any equipment, product, or material is drug paraphernalia, a court or law enforcement officer shall consider, in addition to other relevant factors, all factors identified in division (B) of section 2925.14 of the Ohio Revised Code.

(F) Arrest or conviction for a minor misdemeanor violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record, including any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.

SECTION 2. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.