



SPONSOR: Rep. Osienski & Sen. Paradee
Reps. Baumbach, Bennett, Bentz, Chukwuocha, Cooke,
Freel, Griffith, Heffernan, K. Johnson, Kowalko,
Lambert, Longhurst, Lynn, Matthews, Minor-Brown,
Mitchell, S. Moore, Morrison, K. Williams, Wilson-
Anton; Sens. Gay, Lockman, S. McBride, Sokola,
Sturgeon

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 371

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO MARIJUANA.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Subchapter IV, Chapter 47, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4764. Possession of marijuana; class B misdemeanor, unclassified misdemeanor, or civil violation [For application of this section, see 80 Del. Laws, c. 38, § 6].

(a) [Repealed.]

(b) Any person who knowingly or intentionally uses, consumes, or possesses other than a personal use quantity of a controlled substance or a counterfeit controlled substance classified in § 4714(d)(19) of this title, except as otherwise authorized by this chapter, shall be guilty of an unclassified misdemeanor and be fined not more than \$575, imprisoned not more than 3 months, or both.

~~(c) (1) Any person who knowingly or intentionally possesses a personal use quantity of a controlled substance or a counterfeit controlled substance classified in § 4714(d)(19) of this title, except as otherwise authorized by this chapter, must be assessed a civil penalty of \$100 in addition to such routine assessments necessary for the administration of civil violations and the marijuana must be forfeited. [Repealed.]~~

~~(2) Private use or consumption by a person of a personal use quantity of a controlled substance or a counterfeit controlled substance classified in § 4714(d)(19) of this title is likewise punishable by a civil penalty under this subsection. [Repealed.]~~

~~(3) Notwithstanding paragraph (c)(1) or (c)(2) of this section, any~~ Any person under 21 years of age who ~~commits a violation of this subsection~~ knowingly or intentionally possesses, uses, or consumes a personal use quantity of a controlled substance or a counterfeit controlled substance classified in § 4714(d)(19) of this title, must be assessed a civil penalty of \$100 for a first violation of this subsection and a civil penalty of not less than \$200 nor more than \$500 for a

21 second violation of this subsection and is guilty of an unclassified misdemeanor and must be fined \$100 for a third or
22 subsequent violation of this subsection. A peace officer having reasonable grounds to believe that a juvenile has committed
23 a violation of ~~paragraph (c)(1) or (c)(2) of this section~~ this subsection may issue the juvenile a civil citation in lieu of a civil
24 penalty.

25 (4) [Repealed.]

26 (d) Any person who knowingly or intentionally uses or consumes up to a personal use quantity of a controlled
27 substance or a counterfeit controlled substance classified in § 4714(d)(19) of this title in an area accessible to the public or
28 in a moving vehicle, except as otherwise authorized by this chapter, shall be guilty of an unclassified misdemeanor and be
29 fined not more than \$200, imprisoned not more than 5 days, or both. For purposes of this section ~~area~~ “area accessible to
30 the public” means any of the following:

31 (1) Sidewalks, streets, alleys, parking lots, parks, playgrounds, stores, restaurants, and any other areas to
32 which the general public is invited.

33 (2) Any outdoor location within a distance of 10 feet from a sidewalk, street, alley, parking lot, park,
34 playground, store, restaurant, or any other area to which the general public is invited.

35 (3) Any outdoor location within a distance of 10 feet from the entrances, exits, windows that open, or
36 ventilation intakes of any public or private building.

37 (e) Information concerning a civil offense classified in subsection (c) of this section shall not appear on a person’s
38 certified criminal record.

39 (f) Nothing contained herein shall be construed to repeal or modify any law concerning the medical use of
40 marijuana or tetrahydrocannabinol in any other form, such as Marinol, or the possession of more than 1 ounce of marijuana,
41 or selling, manufacturing, or trafficking in marijuana.

42 (g) Nothing contained herein shall be construed to repeal or modify existing laws, ordinances or bylaws,
43 regulations, personnel practices, or policies concerning the operation of motor vehicles or other actions taken while under
44 the influence of marijuana.

45 ~~(h) Nothing contained herein shall be construed to repeal or modify any law or procedure regarding search and~~
46 ~~seizure.~~

47 §4764A. Adult sharing of marijuana.

48 (a) For purposes of this section, “adult sharing” means transferring marijuana between persons who are 21 years of
49 age or older without remuneration. “Adult sharing” does not include instances in which (i) marijuana is given away
50 contemporaneously with another reciprocal transaction between the same parties; (ii) a gift of marijuana is offered or

51 advertised in conjunction with an offer for the sale of goods or services; or (iii) a gift of marijuana is contingent upon a
52 separate reciprocal transaction for goods or services.

53 (b) Notwithstanding any other provision of this chapter, no civil or criminal penalty may be imposed for adult
54 sharing of a personal use quantity or less of marijuana.

SYNOPSIS

This Act removes all penalties for possession of 1 ounce or less of marijuana, except for those who are under 21 years of age. Possession of more than 1 ounce of marijuana and public consumption remain unclassified misdemeanors. The Act also removes language referencing search and seizure authority.

This Act also adds a provision to the Uniform Controlled Substances Act that provides that there will be no criminal or civil penalty for transfers of 1 ounce or less of marijuana between persons who are 21 years of age or older without remuneration.