

**REPORT OF THE
CHIEF LEGISLATIVE ANALYST**

DATE: August 25, 2017

TO: Honorable Members of the Rules, Elections, and Intergovernmental Relations Committee

FROM: Sharon M. Tso 
Chief Legislative Analyst

Council File No: 17-0002-S106
Assignment No: 17-08-0839

SUBJECT: Resolution (Harris-Dawson - Bonin) to support and/or sponsor legislation that would amend California Health & Safety Code § 11357(b)(2) to change the punishment for the possession of more than 28.5 grams of marijuana or 4 grams of concentrated cannabis for personal use to an infraction punishable by community service or a fine of not more than \$100.

CLA RECOMMENDATION: Adopt Resolution (Harris-Dawson - Bonin) to include in the City's 2017 - 2018 State Legislative Program SUPPORT for and/or SPONSORSHIP of legislation that would amend California Health & Safety Code § 11357(b)(2) to change the punishment for the possession of more than 28.5 grams of marijuana or 4 grams of concentrated cannabis for personal use to an infraction punishable by community service or a fine of not more than \$100.

SUMMARY

On August 18, 2017, a Resolution (Harris-Dawson - Bonin) was introduced to support and/or sponsor legislation that would alter the punishment for possession of more than 28.5 grams of marijuana or 4 grams of concentrated cannabis for personal use to either an infraction punishable by community service or a fine of not more than \$100. The Resolution states that following passage of Proposition 64 in November, recreational cannabis use was legalized in the State.

The Resolution states that under current State law, an individual possessing over 28.5 grams of marijuana or 4 grams concentrated cannabis can be found guilty of a misdemeanor and sentenced to up to six months in county jail or a \$500 fine. The Resolution further states that individuals possessing an amount greater than the legal maximum should not be subject to jail time or a significant fine. The Resolution also notes that people of color are subject to drug enforcement laws at far higher rates than whites.

The Resolution seeks an official position of the City of Los Angeles to support and/or sponsor legislation that would amend California Health & Safety Code § 11357(b)(2) to change the punishment for the possession of more than 28.5 grams of marijuana or 4 grams of concentrated cannabis for personal use to an infraction punishable by community service or a fine of not more than \$100.

BACKGROUND

The State of California, through provisions in the Health and Safety Code, regulates the possession of marijuana. Under State law, persons 21 years of age or older are permitted to possess up to 28.5 grams of marijuana, or up to 4 grams of concentrated cannabis. Possession of an amount greater

than allowed under State law is a misdemeanor, punishable by imprisonment in a county jail of not more than six months and/or a fine no greater than \$500. It is currently the most severe penalty for possession of marijuana (though there are equal or greater penalties relating to the unlawful production, sale, or distribution of marijuana or concentrated cannabis). Moreover, it is one of only two actions that can result in a misdemeanor, the other being possession of any amount of marijuana by adults on the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 to 12 while the school is open for classes or school-related programs.

Other states that have legalized recreational marijuana have established a range of penalties for possession of marijuana. These may include lighter penalties for amounts closer to the legal limit of possession and more severe penalties for amounts that greatly exceed the legal limit.

In Colorado, the legally allowed possession is 1 ounce of marijuana, equivalent to 28.3 grams. Possession of between 1 and 2 ounces is an infraction punishable by a fine not exceeding \$100, while possession of an amount between 2 and 6 ounces is a misdemeanor punishable by up to 1 year in jail and/or a fine not exceeding \$750. Possession between 6 and 12 ounces is a misdemeanor punishable by up to 18 months in jail and/or a maximum fine of \$5,000, while possession greater than 12 ounces is a felony punishable by up to 1 year in jail and a fine not exceeding \$100,000.

In Washington, possession between 1 and 40 ounces is a misdemeanor punishable by between 1 and 90 days in jail and a fine between \$250 and \$1000, with the amount dependent on the number of offenses. Possession greater than 40 ounces is a felony punishable by up to 5 years in jail and/or a fine not exceeding \$10,000.

DEPARTMENTS NOTIFIED

City Attorney's Office

Police Department



Tim Plummer
Analyst

SMT:tcp

Attachments: Resolution (Harris-Dawson - Bonin)

RESOLUTION

RULES, ELECTIONS & INTERGOVERNMENTAL RELATIONS

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, with the passage of Proposition 64 by the voters of California in November 2016, recreational cannabis use by adults is now legal in the State; and

WHEREAS, current law limits the amount of cannabis a person can possess to not more than 28.5 grams of marijuana or 4 grams of concentrated cannabis; and

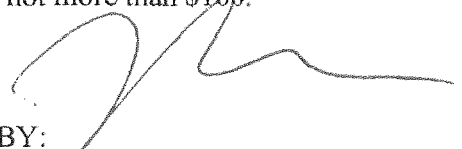
WHEREAS, an individual over the age of 18 found in possession of more than 28.5 grams of marijuana or 4 grams of concentrated cannabis can be found guilty of a misdemeanor and sentenced to up to six months in county jail or a \$500 fine; and


WHEREAS, an individual possessing over 28.5 grams of marijuana or 4 grams of concentrated cannabis for personal use should not be subject to jail time or a significant fine; and

WHEREAS, people of color are subject to drug enforcement laws such as this at far higher rates than whites; and


WHEREAS, the State should eliminate any misdemeanor charges for possession for personal use and change this punishment to an infraction, subject to either a small fine or community service;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2017 - 2018 State Legislative Program SUPPORT for and/or SPONSORSHIP of legislation which would amend California Health & Safety Code § 11357(b)(2) to change the punishment for the possession of more than 28.5 grams of marijuana or 4 grams of concentrated cannabis for personal use to an infraction punishable by community service or a fine of not more than \$100.

PRESENTED BY: 
MARQUEECE HARRIS-DAWSON
Councilmember, 8th District

SECONDED BY: 

ORIGINAL

AUG 18 2017

jwd