

CITY OF SANTA FE NEW MEXICO

BILL NO. 2014-24

INTRODUCED BY:

Referendum & Initiative Petition

AN ORDINANCE

AMENDING SECTION 16-15 SFCC 1987 TO REDUCE THE PENALTIES FOR POSSESSION OF ONE OUNCE OR LESS OF MARIJUANA AND POSSESSION OF MARIJUANA PARAPHERNALIA; AND CREATING A NEW SECTION 20-6 SFCC 1987 TO ESTABLISH THAT POSSESSION OF ONE OUNCE OR LESS OF MARIJUANA AND POSSESSION OF MARIJUANA PARAPHERNALIA ARE CIVIL INFRACTIONS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Section 1. Subsection 16-15.1 SFCC 1987 (being Ord. # 2005-7, §3, as amended) is amended to read:

16-15.1 Intent; Marijuana; Synthetic Cannabinoids; Possession Prohibited.

[A. ~~It is unlawful for a person intentionally to possess one (1) ounce or less of marijuana. It is not a violation of this section for a person to possess marijuana obtained pursuant to a valid prescription or order of a practitioner while acting in the course of his professional practice or as authorized by the Controlled Substances Act, Section 30-31-1 NMSA 1978.~~]

[B]A. It is unlawful for a person intentionally to possess one (1) ounce or less of synthetic

1 cannabinoids for the purpose of causing a condition of or inducing symptoms of intoxication, elation,
2 euphoria, dizziness, excitement, irrational behavior, exhilaration, stupefaction or dulling of the senses,
3 or for the purpose of, in any manner, changing, distorting or disturbing the audio, visual or mental
4 processes.

5 [C]B. A person who violates this section shall, for the first offense, be guilty of a petty
6 misdemeanor and shall be punished by a fine of not less than fifty dollars (\$50.00) or more than one
7 hundred dollars (\$100.) and by imprisonment for not more than fifteen (15) days.

8 [D]C. The municipal court does not have jurisdiction over subsequent offenses.

9 **Section 2. Subsection 16-15.2 SFCC 1987 (being Ord. # 2005-7, §3) is amended to**
10 **read:**

11 **16-15.2 Possession, Delivery or Manufacture of Drug Paraphernalia Prohibited;**
12 **Exceptions.**

13 A. ~~[It is unlawful for a person to use or possess with intent to use drug paraphernalia to~~
14 ~~plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process,~~
15 ~~prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise~~
16 ~~introduce into the human body a controlled substance in violation of the Controlled Substance Act.~~
17 ~~The provisions of this subsection do not apply to a person who is in possession of hypodermic~~
18 ~~syringes or needles at the time he is directly and immediately engaged in a harm reduction program,~~
19 ~~as provided in the Harm Reduction Act.] It is unlawful for a person to use or possess with intent to~~
20 use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,
21 produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or
22 otherwise introduce into the human body a controlled substance in violation of the Controlled
23 Substances Act. The provisions of this subsection do not apply to a person who is in possession of
24 hypodermic syringes or needles at the time he is directly and immediately engaged in a harm
25 reduction program, as provided in the Harm Reduction Act or to a person who is in possession of

1 drug paraphernalia intended for marijuana use.

2 B. It is unlawful for a person to deliver, possess with intent to deliver or manufacture
3 with the intent to deliver drug paraphernalia with knowledge, or under circumstances where one
4 reasonably should know, that it will be used to plant, propagate, cultivate, grow, harm, manufacture,
5 compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal,
6 inject, ingest, inhale or otherwise introduce in the human body a controlled substance in violation of
7 the Controlled Substances Act. The provisions of this subsection do not apply to:

8 (1) Department of health employees or their designees while they are directly
9 and immediately engaged in activities related to the harm reduction program authorized by
10 the Harm Reduction Act; or

11 (2) The sale or distribution of hypodermic syringes and needles by pharmacists
12 licensed pursuant to the Pharmacy Act.

13 C. A person who violates this section with respect to subsection A of this section is
14 guilty of a petty misdemeanor and upon conviction shall be punished by a fine of not less than fifty
15 dollars (\$50.00) nor more than one hundred dollars (\$100.) or by imprisonment for a definite term of
16 ninety (90) days, or both. A person who violates this section with respect to paragraph B of this
17 subsection is guilty of a petty misdemeanor. (For state law, see Sec. 30-31-25.1)

18 **Section 3. A new Section 20-6 SFCC 1987 is ordained to read:**

19 **20-6 [NEW MATERIAL] MARIJUANA AND MARIJUANA PARAPHERNALIA**
20 **POSSESSION**

21 **20-6.1 Lowest Law Enforcement Priority; Possession Prohibited.**

22 A. It is the duty of the police department to make possession of one ounce or less of
23 marijuana the lowest law enforcement priority.

24 B. A person who possesses one ounce or less of marijuana may be fined no more than
25 twenty-five dollars (\$25.00). It is not a violation of this section for a person to possess marijuana

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obtained pursuant to a valid prescription or order of a practitioner while acting in the course of his professional practice or as authorized by the Controlled Substances Act, Section 30-31-1 NMSA 1978.

C. A person possessing paraphernalia intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana into the human body may be fined no more than twenty-five dollars (\$25.00).

APPROVED AS TO FORM:



KELLEY A. BRENNAN, CITY ATTORNEY