

Item # 18

**City of Carson City
Agenda Report**

Date Submitted: 7-28-09

Agenda Date Requested: 8-6-09
Time Requested: 5 minutes

To: Carson City Board of Supervisors

From: Carson City Municipal/Justice Courts

Subject Title: Action to introduce on first reading, Bill No. _____, an ordinance amending Carson City Municipal Code Title 8 Public Peace, Safety and Morals, Chapter 8.04 Prohibited Conduct, Section 8.04.127 Marijuana Possession Without Medical Privilege Card Is A Misdemeanor, by fixing a typographical error to the state law reference and other matters properly related thereto.

Staff Summary: The ordinance fixes a typographical error found by the publisher of the municipal code.

Type of Action Requested: (check one)
 Resolution Ordinance (First Reading)
 Formal Action/Motion Other (Specify)

Does This Action Require A Business Impact Statement: Yes No

Recommended Board Action: I move to introduce on first reading, Bill No. _____, an ordinance amending Carson City Municipal Code Title 8 Public Peace, Safety and Morals, Chapter 8.04 Prohibited Conduct, Section 8.04.127 Marijuana Possession Without Medical Privilege Card Is A Misdemeanor, by fixing a typographical error to the state law reference and other matters properly related thereto.

Explanation for Recommended Board Action: The publisher of the municipal code brought to the Court's attention that there was a typographical error in Carson City Municipal Code Section 8.04.127. The reference to the state law statute was incorrectly stated as NRS 212.60. The correct reference is NRS 212.160. This ordinance adds a "1" to the reference to reflect the proper state law.

NRS 453.336 Unlawful possession not for purpose of sale: Prohibition; penalties.

1. A person shall not knowingly or intentionally possess a controlled substance, unless the substance was obtained directly from, or pursuant to, a prescription or order of a physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric physician, optometrist, advanced practitioner of nursing or veterinarian while acting in the course of his professional practice, or except as otherwise authorized by the provisions of NRS 453.005 to 453.552, inclusive.

2. Except as otherwise provided in subsections 3 and 4 and in NRS 453.3363, and unless a greater penalty is provided in NRS 212.160, 453.3385, 453.339 or 453.3395, a person who violates this section shall be punished:

(a) For the first or second offense, if the controlled substance is listed in schedule I, II, III or IV, for a category E felony as provided in NRS 193.130.

(b) For a third or subsequent offense, if the controlled substance is listed in schedule I, II, III or IV, or if the offender has previously been convicted two or more times in the aggregate of any violation of the law of the United States or of any state, territory or district relating to a controlled substance, for a category D felony as provided in NRS 193.130, and may be further punished by a fine of not more than \$20,000.

(c) For the first offense, if the controlled substance is listed in schedule V, for a category E felony as provided in NRS 193.130.

(d) For a second or subsequent offense, if the controlled substance is listed in schedule V, for a category D felony as provided in NRS 193.130.

3. Unless a greater penalty is provided in NRS 212.160, 453.337 or 453.3385, a person who is convicted of the possession of flunitrazepam or gamma-hydroxybutyrate, or any substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years.

4. Unless a greater penalty is provided pursuant to NRS 212.160, a person who is convicted of the possession of 1 ounce or less of marijuana:

(a) For the first offense, is guilty of a misdemeanor and shall be:

(1) Punished by a fine of not more than \$600; or

(2) Examined by an approved facility for the treatment of abuse of drugs to determine whether he is a drug addict and is likely to be rehabilitated through treatment and, if the examination reveals that he is a drug addict and is likely to be rehabilitated through treatment, assigned to a program of treatment and rehabilitation pursuant to NRS 453.580.

(b) For the second offense, is guilty of a misdemeanor and shall be:

(1) Punished by a fine of not more than \$1,000; or

(2) Assigned to a program of treatment and rehabilitation pursuant to NRS 453.580.

(c) For the third offense, is guilty of a gross misdemeanor and shall be punished as provided in NRS 193.140.

(d) For a fourth or subsequent offense, is guilty of a category E felony and shall be punished as provided in NRS 193.130.

5. As used in this section, "controlled substance" includes flunitrazepam, gamma-hydroxybutyrate and each substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor.

(Added to NRS by 1971, 2019; A 1973, 1214; 1977, 1413; 1979, 1473; 1981, 740, 1210, 1962; 1983, 289; 1987, 759; 1991, 1660; 1993, 2234; 1995, 1285, 1719; 1997, 521, 525, 903; 1999, 1917; 2001, 410, 785, 797, 3067; 2007, 1864)

Applicable Statute, Code, Policy, Rule or Regulation: Nevada Revised Statute 453.336

Fiscal Impact: N/A

Funding Source: N/A

Supporting Material: Proposed ordinance
NRS 453.336

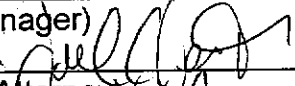
Prepared By: Maxine Cortes, Court Administrator

Reviewed By:



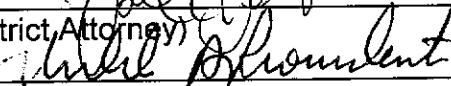
(City Manager)

Date: 7/28/09



(District Attorney)

Date: 7/28/2009



(Finance Director)

Date: 7/28/09

Board Action Taken:

Motion: _____ 1) _____ Aye/Nay
2) _____

(Vote Recorded By)

1 ORDINANCE NO. _____

2 BILL NO. _____

3 AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE TITLE 8
4 PUBLIC PEACE, SAFETY AND MORALS, CHAPTER 8.04 PROHIBITED
5 CONDUCT, SECTION 8.04.127 MARIJUANA POSSESSION WITHOUT
6 MEDICAL PRIVILEGE CARD IS A MISDEMEANOR, BY FIXING A
7 TYPOGRAPHICAL ERROR TO THE STATE LAW REFERENCE AND OTHER
8 MATTERS PROPERLY RELATED THERETO.

9 THE BOARD OF SUPERVISORS OF CARSON CITY DO ORDAIN:

10 SECTION I:

11 That Chapter 8.04 of the Carson City Municipal Code is hereby amended as follows:

12 **8.04.127 Marijuana possession without medical privilege card is a misdemeanor.**

13 Except for possession of drug contraband by a prisoner which is still a felony under NRS
14 212.160, a person convicted of possession of one (1) ounce or less of marijuana:

- 15 1. For the first offense, is guilty of a misdemeanor and shall be:
- 16 a. Punished by a fine not more than six hundred dollars (\$600.00); or
 - 17 b. Examined by an approved facility for the treatment of abuse of drugs to determine
18 whether he is a drug addict and is likely to be rehabilitated through treatment and, if the
19 examination reveals that he is a drug addict and is likely to be rehabilitated through treatment,
20 assigned to a program of treatment and rehabilitation pursuant to NRS 453.580.
- 21 2. For the second offense, is guilty of a misdemeanor and shall be:
- 18 a. Punished by a fine of not more than one thousand dollars (\$1,000.00); or
 - 19 b. Assigned to a program of treatment and rehabilitation pursuant to NRS 453.580.
- 20 3. For the third offense, is guilty of a gross misdemeanor and shall be punished as provided
21 in NRS 193.140.
- 22 4. For a fourth or subsequent offense, is guilty of a category E felony and shall be punished
23 as provided in NRS 193.130.

24 SECTION II:

25 That no other provisions of Chapter 8.04 of the Carson City Municipal Code are
26 affected by this ordinance.

27 PROPOSED on _____ (month) _____(day), 2009

28 PROPOSED by Supervisor _____.

PASSED _____(month) _____(day), 2009.

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VOTE:

AYES:

NAYES:

ABSENT:

ATTEST:

ALAN GLOVER, Clerk/Recorder

ROBERT L. CROWELL, Mayor

This ordinance shall be in force and effect from and after the ____ day of the month of _____ of the year 2009.