City of Philadelphia

City Council
Chief Clerk's Office
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Legislation Details (With Text)

File #:	140001-A	**Version:** 2	**Name:**		
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On agenda:			**Final action:**		

Title: Amending Chapter 10-800 of The Philadelphia Code, entitled "Safety," by providing for ending the existing procedure of mandatory custodial arrests for the crime of Marijuana possession, and by requiring the reporting of the number of arrests and related information with respect to those arrested for Marijuana possession; all under certain terms and conditions.

Sponsors: Councilmember Kenney

Indexes:

Code sections: 10-800 - Safety

Attachments: 1. Bill No. 14000101, As Amended.pdf, 2. Bill No. 140001-A02, As Amended on Floor.pdf

Date	Ver.	Action By	Action	Result	Tally
9/25/2014	0	CITY COUNCIL	WITHDRAWN		
3/20/2014	2	CITY COUNCIL	ORDERED PLACED ON FINAL PASSAGE CALENDAR FOR NEXT MEETING.		
3/20/2014	2	CITY COUNCIL	AMENDED		
3/20/2014	1	CITY COUNCIL	READ		
3/13/2014	1	CITY COUNCIL	ORDERED PLACED ON THIS DAY`S FIRST READING CALENDAR		
3/13/2014	1	CITY COUNCIL	SUSPEND THE RULES OF THE COUNCIL	Pass	
3/13/2014	1	CITY COUNCIL	ORDERED PLACED ON NEXT WEEK`S SECOND READING CALENDAR		
3/10/2014	0	Committee on Law and Government	HEARING NOTICES SENT		
3/10/2014	0	Committee on Law and Government	HEARING HELD		
3/10/2014	0	Committee on Law and Government	AMENDED		
3/10/2014	1	Committee on Law and Government	REPORTED FAVORABLY, RULE SUSPENSION REQUESTED		
1/23/2014	0	CITY COUNCIL	Introduced and Referred	Pass	

Amending Chapter 10-800 of The Philadelphia Code, entitled ”Safety,” by providing for ending the existing procedure of mandatory custodial arrests for the crime of Marijuana possession, and by requiring the reporting of the number of arrests and related information with respect to those arrested for Marijuana possession; all under certain terms and conditions.

WHEREAS, The federal government's war on drugs has failed. Otherwise law-abiding adults are being arrested and imprisoned for nonviolent marijuana offenses, which is clogging courts and jails. Each year Pennsylvania spends nearly $350 million of taxpayer money enforcing marijuana laws. Decades of arresting

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millions of marijuana users nationwide have failed to control marijuana use or reduce its availability. Minorities are disproportionately impacted by marijuana laws, with African Americans five times more likely to be arrested for marijuana offenses than other persons; and

WHEREAS, Although the City of Philadelphia has begun to engage in meaningful marijuana reform, primarily under the leadership of the Philadelphia District Attorney's "Small Amounts of Marijuana" (SAM) program, Philadelphia still has the most punitive arrest policies of any county in Pennsylvania for those in possession of 30 grams of marijuana or less; and

WHEREAS, While neighboring Montgomery County, and many other counties, issue summons and fines for the vast majority of SAM-only violations, the City and County of Philadelphia requires a mandatory arrest in every single case; and

WHEREAS, In 2012 alone, Philadelphia Police spent thousands of hours and subsantial public funds on 3,709 separate incidents of physically handcuffing, arresting, and processing adults guilty of possessing marijuana; and

WHEREAS, Of the adults arrested for marijuana possession in 2012, 89 percent, or 3,319 individuals, were African American; and

WHEREAS, If the District Attorney's SAM program is designed to issue a fine and expunge the arrest record of anyone who attends an educational course, there is no point in mandatory custodial arrests for people who are not going to be prosecuted in the first place; and

WHEREAS, A statewide February 2013 Franklin & Marshall College poll discovered the highest recorded levels of public support for adult medicinal marijuana reform, with 82 percent in favor, and the lowest recorded levels of public opposition, 55 percent, to the outright legalization of the recreational use of marijuana; and

WHEREAS, Philadelphia should determine its marijuana policies locally, not hand them over to the federal Drug Enforcement Administration. Many recreational marijuana users are productive citizens who work, pay taxes, and hardly deserve a criminal record that can block opportunities for success, employment, and education. Current marijuana policies continue to needlessly harm medical marijuana patients. Law enforcement resources would be better spent fighting serious and violent crimes. Making adult marijuana offenses Philadelphia's lowest law enforcement priority will reduce expenditures on law enforcement and unnecessary punishment for these offenses; and

WHEREAS, It is the hope of the citizens of Philadelphia that the Federal and Pennsylvania State governments will change the laws to tax and regulate marijuana, so as to eliminate costs and problems caused by prohibition, open access to marijuana treatment for patients for whom their physician deems access wise or necessary, keep marijuana off the streets and away from children, and raise tax revenues for vital public services; now, therefore

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 10-800 of The Philadelphia Code is hereby amended to read as follows:

CHAPTER 10-800. SAFETY

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§ 10-840. Marijuana Possession Procedure.

(1) Definitions.

(a) "Arrest" means the taking or keeping of a person in custody by legal authority in response to a criminal charge or suspicion of criminal charge.

(b) "Marijuana" or "Marihuana" means all forms and/or varieties of the genus Cannabis sativa L., whether growing or not, as defined by "The Controlled Substance, Drug, Device and Cosmetic Act," 1972, April 14, P.L. 233, No. 64, 51 et seq., 35 P.S. §§ 780-101 et seq.

(c) "Small amount of Marijuana" means thirty (30) grams or less of Marijuana as defined by "The Controlled Substance, Drug, Device and Cosmetic Act," 1972, April 14, P.L. 233, No. 64, 51 et seq., 35 P.S. §§ 780-101 et seq.

(2) As permitted by the Pennsylvania Rules of Criminal Procedure and the Pennsylvania Criminal Code, the Philadelphia Police Department is authorized to cease the Department's policy of mandatory custodial arrests for possession of small amounts of Marijuana.

(3) It is the intent of Council that a custodial arrest for possession of a small amount of Marijuana not be made when the identity of the individual can be positively confirmed by the arresting officer.

(4) The arresting officer may make a custodial arrest for possession of a small amount of Marijuana when:

(a) The identity of the person cannot be verified.

(b) Any other concurrent violations of law or existing warrants are applicable at the time of arrest.

(c) The officer has reasonable grounds for believing that the defendant will not obey a summons.

(d) A previous summons for the same offense has been served and disobeyed by the person.

(5) When no custodial arrest is made for possession of a small amount of marijuana any applicable criminal charges may be brought through the filing of a written complaint and issuance of summons in accordance with Pa.R.Crim.P. 1003.

(6) The Police Commissioner and the District Attorney are authorized to create an enforcement policy and adopt necessary regulations to implement this Section.

(7) This Section shall not be construed to supersede any existing Pennsylvania or Federal law.

(8) City Council authorizes the Philadelphia Police Department to give lowest priority to the enforcement of marijuana laws, except as provided in subsection (4)(a) and (8)(a). Except as provided in subsection (4)(a) and (8)(a), Philadelphia Law Enforcement Officers are authorized to make law enforcement

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activity relating to marijuana offenses by adults 18 years or older their lowest law enforcement priority. Law enforcement activities include, but are not limited to, investigation, citation, arrest, and seizure of property.

(a) It is the intent of Council that the lowest law enforcement priority policy should not apply to the following:

(i) Distribution or sale of marijuana to minors;

(ii) Possession, use, sale or distribution of marijuana by minors;

(iii) Distribution or sale of marijuana on public property (including public streets, sidewalks, parks, buildings or other public property) or within view of any person on public property;

(iv) Driving under the influence; or

(v) A marijuana offense that occurs in conjunction with or is related to an act or threat of violence, or where law enforcement officers reasonably believe that the marijuana offense poses a substantial threat of serious physical harm to the public.

(b) It is the intent of Council that the lowest law enforcement priority policy should apply to cooperating with Federal and State agents to arrest, cite, investigate, prosecute, or seize property from adults for marijuana offenses included in the lowest law enforcement priority policy, where those marijuana offenses do not occur in conjunction with other criminal activity.

(9) Reporting Requirements. The Police Commissioner shall every six months submit a written report and relevant electronic data file to the Mayor, with a copy to the City Council President, and the Chief Clerk of Council, that outlines all information pertaining to arrests, summons or citation made or issued by Police Department personnel in the preceding six months for the possession of any amount of marijuana.

(a) The information in this report shall include at a minimum the following information regarding the arrested individuals:

(i) Age

(ii) Race

(iii) Sex

(iv) Amount of Marijuana possessed by the individual

(v) The arrest location and Police District

(vi) Such other information as the Commissioner may find appropriate.

(b) Data from each report shall be included in regular public crime data reporting according to Police Department procedures and may cover time periods that match existing data reporting deadlines.

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(c) The first report shall be due no later than July 15, 2014 and shall include data from January 1, 2014 to June 30, 2014. Future reports will also be due no later than 15 days after the close of the period covered by the report.

(d) The reporting required under this subsection (9) may be suspended or modified by written agreement of the Police Commissioner and the President of City Council.

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SECTION 2. This Ordinance shall take effect in sixty (60) days.

Explanation:
Italics indicate new matter added.

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