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HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 1

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 Chapter 47, Title 16 of the Delaware Code by making deletions as shown by strike through and
insertions as shown by underline as follows:

§ 4701. Definitions.

As used in this chapter:

(28) a. “Marijuana” means all parts of the plant *Cannabis sativa* L., whether growing or not, the seeds thereof,
the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture or
preparation of the plant, its seeds or resin.

b. ~~It~~ “Marijuana” does not include any of the following:

1. the ~~The~~ mature stalks of the plant, fiber produced from the stalks, oil or cake made from the
seeds of the plant, or any other compound, manufacture, salt, derivative, mixture or preparation of the
mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant
which is incapable of germination.

2. ~~Marijuana does not include products~~ Products approved by the US Food and Drug
Administration.

3. Industrial hemp as defined in § 2801 of Title 3.

~~(36)~~ (37) “Personal use quantity” ~~shall mean~~ means 1 ounce or less of marijuana in the form of leaf ~~marijuana.~~
marijuana, 12 grams or less of concentrated cannabis, or cannabis products containing 750 milligrams or less of delta-
9-tetrahydrocannabinol. “Leaf marijuana” means the dried leaves and flowering tops of the plant *cannabis sativa* L.

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

(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.~~

~~(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.~~

(c)(3) Notwithstanding paragraph (c)(1) or (c)(2) of this section, any A 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 second violation of this subsection and is guilty of an unclassified misdemeanor and must be fined \$100 for a third or subsequent violation of this subsection. A peace officer having reasonable grounds to believe that a juvenile has committed 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 penalty.

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 [Repealed.]~~

§ 4764A. Legal marijuana-related activity.

(a) For purposes of this section, “adult sharing” means transferring marijuana between persons who are 21 years of age or older without remuneration. “Adult sharing” does not include instances in which (i) marijuana is given away contemporaneously with another reciprocal transaction between the same parties; (ii) a gift of marijuana is offered or advertised in conjunction with an offer for the sale of goods or services; or (iii) a gift of marijuana is contingent upon a separate reciprocal transaction for goods or services.

(b) Notwithstanding any other provision of this chapter, no civil or criminal penalty may be imposed, nor may criminal or civil asset forfeiture be pursued, for any of the following activities by an individual 21 years of age or older:

(1) Adult sharing of a personal use quantity or less of marijuana.

(2) Possessing, using, displaying, purchasing, or transporting marijuana accessories or a personal use quantity or less of marijuana outside of a motor vehicle.

(3) Possessing and transporting marijuana accessories or a personal use quantity or less of marijuana, inside of a motor vehicle as long as the marijuana accessories or marijuana is in a closed container or is not readily accessible to anyone inside the motor vehicle.

(4) Assisting another individual who is 21 years of age or older in any of the acts described in paragraphs (1), (2), and (3) of this subsection.

(b) The following acts remain unlawful and an offense under the law of this State:

(1) Consuming marijuana in an area accessible to the public or in a moving vehicle, as defined and punished under § 4764(d) of Title 16.

(2) Growing, manufacturing, selling, or cultivating marijuana without a license granted under Chapter 49A of Title 16 or other provision of State law, as defined and punished under Chapter 47 of Title 16.

(3) Unlawfully using a license or identification card as defined and punished under § 2751 of Title 21.

§ 4771. Drug paraphernalia [For application of this section, see 80 Del. Laws, c. 38, § 6].

(a) It is unlawful for any person to use, or possess with intent to use, drug paraphernalia. ~~Except that any person charged under § 4764(b) or (d) of this title, or assessed a civil penalty under § 4764(c) of this title, shall not also be charged with this offense if in possession of drug paraphernalia pertaining to the use of marijuana.~~

(b) It is unlawful for any person to deliver, possess with intent to deliver, convert, manufacture, convey, sell, or offer for sale drug paraphernalia, knowing or under circumstances where one should reasonably know that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance.

(c) ~~[Repealed.]~~ This section does not apply to items that are used, or intended primarily for use, with marijuana.

SYNOPSIS

This Act removes all penalties for use or possession of a personal use quantity of marijuana and marijuana accessories. It further specifies that the adult sharing of a personal use quantity or less of marijuana is legal activity for those 21 years of age or older and that those 21 or older may possess, use, display, purchase, or transport accessories and personal use quantities of marijuana without penalty. When transporting in a vehicle, those items must be in a closed container or otherwise not readily accessible to anyone inside the vehicle. The statute also specifies certain activities which remain unlawful. Finally, the definition of "personal use quantity" of marijuana is updated to include not only 1 ounce or less of leaf marijuana, but also equivalent amounts of marijuana product in other forms.