



City of Downey



Office of the Chief of Police
Police Administration
Phone: 562-904-2300
Fax: 562-904-2349

City of Downey
Police Department
10911 Brookshire Avenue
Downey, CA 90241
www.downeypd.org

**PUBLIC INFORMATION BULLETIN:
PROP. 64, CALIFORNIA'S NEW MARIJUANA LAW**

Downey, CA, February 22, 2017:

In response to the many questions the department has received regarding the newly implemented marijuana laws in the State of California (Prop. 64), we have provided the following information for reference.

On November 8, 2016, California voters passed Proposition 64, the Adult Use of Marijuana Act. The intent of Proposition 64 is to “establish a comprehensive system to legalize, control and regulate the cultivation, processing, manufacture, distribution, testing and sale of nonmedical marijuana, including marijuana products, for use by adults **21 years and older**, and to tax the commercial growth and retail sale of marijuana.” With the passage of the proposition, many residents have inquired as to what the law restricts pertaining to marijuana possession. One of the key thresholds for marijuana possession is that anyone under 21 years of age is still prohibited from possessing marijuana. Below are some of the specifics for marijuana possession as it pertains to state law:

A. Possession of Marijuana-21 years of age and older:

11362.1(a) H&S states that it shall be lawful under state and local law, and *shall not be a violation* of state or local law, for persons 21 years of age or older to:

- (1) **Possess, process, transport, purchase, obtain, or give away** to persons 21 years of age or older without any compensation whatsoever, **not more than 28.5 grams of marijuana** not in the form of concentrated cannabis;
- (2) Possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever, **not more than 8 grams of marijuana in the form of concentrated cannabis**, including as contained in marijuana products;
- (3) Possess, plant, cultivate, harvest, dry, or process **not more than six living marijuana plants** and possess the marijuana produced by the plants;
- (4) **Smoke or ingest marijuana** or marijuana products
- (5) Possess, transport, purchase, obtain, use, manufacture, or give away marijuana accessories to persons 21 years of age or older without any compensation whatsoever.¹

¹ H&S §11018.2 defines marijuana accessories to mean “any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana or marijuana products into the human body.”

FOR IMMEDIATE RELEASE

B. Cultivation of Marijuana-21 Years of Age and Older

11362.2 H&S establishes the guidelines for the personal cultivation of live marijuana plants by persons 21 years of age and older [which is otherwise made lawful under H&S

11362.1(a)(3)]. The new law allows:

- (1) A person shall plant, cultivate, harvest, dry, or process plants in accordance with local ordinances, if any² [**Infraction-** \$250 fine if 18 or over; drug counseling if under 18].
- (2) The living plants and any marijuana produced by the plants in excess of **28.5 grams are kept within the person's private residence, or upon the grounds of that private residence** (e.g., in an outdoor garden area), are in a locked space, and are **not visible by normal unaided vision from a public place** [**Infraction-** \$250 fine if 18 or over; drug counseling if under 18].
- (3) **Not more than six living plants** may be planted, cultivated, harvested, dried, or processed within a single private residence, or upon the grounds of that private residence, at one time [**Infraction-** \$250 fine if 18 or over; drug counseling if under 18].

C. Use of Marijuana-21 Years of Age and Older

11362.3 sets out guidelines for the smoking or ingestion of marijuana. The section stipulates that a person **may not**:

- (1) **Smoke or ingest marijuana or marijuana products in any public place**³. [**Infraction-** \$100 fine].
- (2) Smoke marijuana or marijuana products **in a location where smoking tobacco is prohibited** [**Infraction-**\$250 fine, unless permitted by state or local law].
- (3) Smoke marijuana or marijuana products within **1,000 feet of a school, day care center, or youth center while children are present at such a school, day care center, or youth center**, except in or upon the grounds of a private residence or in accordance with Section 26200 of the Business and Professions Code or Chapter 3.5 of Division 8 of the Business and Professions Code and only if such smoking is not detectable by others on the grounds of such a school, day care center, or youth center while children are present [**Infraction-**\$250 fine, unless permitted by state or local law].
- (4) Possess an **open container or open package of marijuana** or marijuana products **while driving, operating, or riding in the passenger seat or compartment of a motor vehicle**, boat, vessel, aircraft, or other vehicle used for transportation [**Infraction-**\$250 fine, unless permitted by state or local law].
- (5) Possess, smoke or ingest marijuana or marijuana products in or **upon the grounds of a school, day care center, or youth center while children are present** [**Misdemeanor** if 18 or over; **infraction** if under 18].

² H&S §11362.2(b) authorizes local governments to “reasonably regulate” the planting, cultivating, harvesting, drying or processing of live marijuana plants and possession of marijuana produced by the plants, HOWEVER, local governments cannot ban such activities inside of a private residence or accessory structure of a private residence that is fully enclosed and secure. Local governments MAY completely ban such activities occurring outdoors of a private residence.

³ “Public place” means an area or building open to the general public or exposed to public view and includes streets, sidewalks, restaurants, common areas, etc.

- (6) Manufacture concentrated cannabis using a volatile solvent, unless done in accordance with a license under Chapter 3.5 of Division 8 or Division 10 of the Business and Professions Code [**Felony**-3,5, or 7 years in prison or fine up to \$50,000].
- (7) **Smoke or ingest marijuana or marijuana products while driving**, operating a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation.
- (8) Smoke or ingest marijuana or marijuana products while **riding in the passenger seat or compartment of a motor vehicle**, boat, vessel, aircraft, or other vehicle used for transportation.

D. **Possession or Use of Marijuana-Under 21 Years of Age:**

Persons under the age of 21 are still prohibited from possessing marijuana, pursuant to 11357 H&S. The new breakdown of violations under 11357 H&S are:

11357(1)-Persons who possess **not more** than 28.5 grams of marijuana or 4 grams of concentrated cannabis (or both), under the age of 18 shall be guilty of an **infraction**

11357(a)(2)-Persons at least 18 years of age but less than 21 years of age (who possess **no more** than 28.5 grams of marijuana or 4 grams of concentrated cannabis, or both) shall be guilty of an **infraction**

11357(B)(1)-Persons under the age of 18 who possess more than 28.5 grams of marijuana or more than 4 grams of concentrated cannabis, or both, shall be guilty of an **infraction**.

11357(b)(2)-Persons 18 years of age or over who possess **more than** 28.5 grams of marijuana or more than 4 grams of concentrated cannabis, or both, shall be guilty of a **misdemeanor** [6 months in jail and/or \$500 fine]

11357(c)-Anyone 18 years of age or over who possesses **not more** than 28.5 grams of marijuana or 4 grams of concentrated cannabis, or both, upon school grounds [K-12] that is open for classes or school related activities is guilty of a **misdemeanor**.

11357(d)-Anyone under the age of 18 who possesses not more than 28.5 grams of marijuana or 4 grams of concentrated cannabis, or both upon school grounds [K-12] that is open for classes or school related activities is guilty of an **infraction**.

The selling of marijuana is also still illegal until the state regulatory authority creates a taxation process and puts it into place (the statute calls for a taxation process to be in effect by January 1, 2018). Until then, if an adult is caught selling marijuana to another adult, they may be charged with a **misdemeanor** under 11359 H&S. In a case where an adult sells marijuana to a **minor**, this would be a **felony**; also under 11359 H&S.

Local Municipal Codes:

DMC 4102(a)-prohibits the consumption of “non-alcoholic intoxicating substances” or “illegal or controlled substance,” which includes, but is not limited to, marijuana at certain locations, including city parks.