

JACKSONVILLE POLICE DEPARTMENT

Policy: 10-26
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ISSUING CRIMINAL CITATIONS FOR MISDEMEANOR MARIJUANA/PARAPHERNALIA POSSESSION

PURPOSE: To speed up the process and keep more officers on the street when dealing with low level offenders.

POLICY: It is the policy of this department to issue a criminal citation for the offense of misdemeanor possession of marijuana and/or misdemeanor possession of drug paraphernalia in certain situations. This policy is to provide guidelines for the issuance of a criminal citation in lieu of a custodial arrest.

REFERENCE STATUTES:

- I. **A.C.A § 5-64-215 SUBSTANCES IN SCHEDULE VI** (in part): (a) In addition to any substance placed in Schedule VI by the Director of the Department of Health under § 5-64-214, any material, compound, mixture, or preparation, whether produced directly or indirectly from a substance of vegetable origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, that contains any quantity of the following substances, or that contains any of their salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation, is included in Schedule VI:
- (1) Marijuana;
 - (2) Tetrahydrocannabinols;
 - (3) A synthetic equivalent of:
 - (A) The substance contained in the Cannabis plant; or
 - (B) The substance contained in the resinous extractives of the genus Cannabis;
 - (4) Salvia divinorum or Salvinorin A, which includes all parts of the plant presently classified botanically as Salvia divinorum, whether growing or not, the seeds of the plant, any extract from any part of the plant, and every compound, manufacture, derivative, mixture, or preparation of the plant, its seeds, or its extracts, including salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation;
 - (5) Synthetic substances, derivatives, or their isomers in the chemical structural classes described below in subdivisions (a)(5)(A)-(J) of this section and also specific unclassified substances in subdivision (a)(5)(K) of this section. Compounds of the structures described in this subdivision (a)(5), regardless of numerical designation of atomic positions, are included in this subdivision (a)(5).
 - (6) A synthetic substance, derivative, or its isomers with:
 - (A) Similar chemical structure to any substance described in subdivisions (a)(1)-(5) of this section; or
 - (B) Similar pharmacological effects to any substance described in subdivisions (a)(1)-(5) of this section.
- II. **A.C.A § 5-64-411 PROXIMITY TO CERTAIN FACILITIES ~ ENHANCED PENALTIES:**
- (a) A person is subject to an enhanced sentence of an additional term of imprisonment of ten (10) years if:

- (1) The person:
 - (A) Possesses a controlled substance in violation of § 5-64-419 and the offense is a Class C felony or greater; or
 - (B) Possesses with the purpose to deliver, delivers, manufactures, or trafficks a controlled substance in violation of §§ 5-64-420 ~ 5-64-440; and
- (2) The offense is committed on or within one thousand feet (1,000') of the real property of:
 - (A) A city or state park;
 - (B) A public or private elementary or secondary school, public vocational school, or private or public college or university;
 - (C) A designated school bus stop as identified on the route list published by a public school district each year;
 - (D) A skating rink, Boys and Girls Club, YMCA, YWCA, community center, recreation center, or video arcade;
 - (E) A publicly funded and administered multifamily housing development;
 - (F) A drug or alcohol treatment facility;
 - (G) A day care center;
 - (H) A church; or
 - (I) A shelter as defined in § 9-4-102.
- (b) The enhanced portion of the sentence is consecutive or concurrent to any other sentence imposed at the discretion of the court.
- (c) Any person convicted under this section is not eligible for early release on parole or community correction transfer for the enhanced portion of the sentence.
- (d) (1) Except for property covered by subdivision (a)(2)(C) of this section, property covered by this section shall have a notice posted at the entrances to the property stating:

"THE SALE OF DRUGS UPON OR WITHIN ONE THOUSAND FEET (1000') OF THIS PROPERTY MAY SUBJECT THE SELLER OF THE DRUGS TO AN ADDITIONAL TEN (10) YEARS IMPRISONMENT IN ADDITION TO THE TERM OF IMPRISONMENT OTHERWISE PROVIDED FOR THE UNLAWFUL SALE OF DRUGS."

- (2) However, the posting of the notice is not a necessary element for the enhancement of a sentence under this section.
- (e) As used in this section, "recreation center" means a public place of entertainment consisting of various types of entertainment, including without limitation billiards or pool, ping pong or table tennis, bowling, video games, pinball machines, or any other similar type of entertainment.

III. **A.C.A. § 5-64-419 POSSESSION OF A CONTROLLED SUBSTANCE** (in part): (a) Except as provided by this chapter, it is unlawful for a person to possess a controlled substance. (b) A person who violates this section with respect to:

- (5) A Schedule VI controlled substance with an aggregate weight, including an adulterant or diluent, of:
 - (A) Less than four ounces (4 oz.) upon conviction is guilty of a Class A misdemeanor;
 - (B) One ounce (1 oz.) or more but less than four ounces (4 oz.) and the person has four (4) previous convictions under this section or the former § 5-64-401(c) upon conviction is guilty of a Class D felony

IV. **A.C.A. § 5-64-443 DRUG PARAPHERNALIA** (in part): (a) A person who possesses drug paraphernalia with the purpose to use the drug paraphernalia to inject, ingest, inhale, or otherwise