

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE COUNCIL CHAIR TO EXECUTE A LETTER TO GOVERNOR BILL LEE IN RESPONSE TO THE STATEMENT FROM PRESIDENT BIDEN ON MARIJUANA REFORM.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That it is hereby authorizing the Council Chair to execute a letter to Governor Bill Lee in response to the Statement from President Biden on marijuana reform.

ADOPTED: _____, 2023

/mem

December 13, 2022

Governor Bill Lee
Governor's Office
State Capitol, 1st Floor
600 Dr. Martin L. King, Jr. Blvd.
Nashville, TN 37243

Re: Marijuana Legislative Changes requested by President Biden

Dear Governor Lee:

Tennessee Code Annotated § 39-17-418, which is attached currently, makes it an offense for any person to possess or distribute a small amount of marijuana not in excess of one-half (1/2) ounce in Tennessee as a general matter of state law. President Biden's decision to pardon Americans convicted of simple marijuana possession under federal law has also urged changes in this law and similar laws in other states in a recent press release from the White House on October 6, 2022, urging all Governors to do the same with regard to state offenses, which is also attached. This new press release announces a Presidential pardon for all prior federal offenses of simple possession of marijuana, and the United States Attorney General has been directed to develop an administrative process for the issuance of certificates of pardon to eligible people who were previously convicted under Federal law.

The Chattanooga City Council is aware that the governing bodies of Memphis and Nashville have previously adopted legislation to not arrest or prosecute citizens for simple possession of marijuana in small amounts less than one-half (1/2) ounce although the general state law makes it a criminal offense. President Biden has urged all governors to do the same with regard to state offenses under statutes like T.C.A. § 39-17-418. President Biden has stated that sending people to prison for possessing marijuana has upended too many lives and incarcerated people for conduct that many states no longer prohibit. Criminal records for marijuana possession have also imposed needless barriers to employment, housing, and educational opportunities, and while white, and Black and brown people use marijuana at similar rates, Black and brown people have been arrested, prosecuted, and convicted at disproportionate rates.

Please consider the action taken by President Biden in this state and continue to regulate important limitations on trafficking, marketing, and under-age sales of THC and CBD consumption which are currently allowed based on certain percentages under Tennessee law.

The City Council is also aware that Tennessee recently enacted a minimal expansion of its medical marijuana law. The law took effect May 27, 2021, and it slightly enlarges the medical conditions for which persons may possess a very limited amount of tetrahydrocannabinol (THC). Previously, Tennessee law allowed only those diagnosed with intractable seizures or epilepsy to possess a limited amount of medical cannabis oil. The new measure allows individuals who have the following medical conditions to possess CBD oil containing less than 0.9% of THC:

- Alzheimer's disease;
- Amyotrophic lateral sclerosis (ALS);
- Cancer, when such disease is diagnosed as end-stage or the treatment produces related wasting illness, nausea and vomiting, or pain;
- Inflammatory bowel disease, including Crohn's disease and ulcerative colitis;
- Epilepsy or seizures;
- Multiple sclerosis;
- Parkinson's disease;
- Human immunodeficiency virus (HIV) or acquired immunodeficiency syndrome (AIDS);
- Sickle cell disease.

The patients diagnosed with a qualifying condition must have a letter from a doctor licensed to practice in Tennessee attesting to the patient's qualifying medical condition, specifying the specific condition, and stating that conventional treatments to address this condition have been ineffective. The law also creates a commission to study the possibility of future medical marijuana legalization. The commission is to prepare recommendations for how best to establish an effective, patient-focused medical marijuana program in Tennessee and include proposed legislation in its recommendations.

The Chattanooga City Council supports review of our current state laws and enabling any taxing authorization for CBD products which are sold legally in Tennessee provided that specific taxes are provided to pay for persons who purchase such products similar to the current alcohol taxes which are imposed on those sales in this state. The City Council would request your guidance and help on developing uniform legal requirements for possession, sales, and taxation on all THC, CBD, and small amounts of marijuana in this state which are uniform with all contiguous states to Tennessee.

Governor Bill Lee
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The City Council for Chattanooga has considered this action and has urged this response by Resolution which was passed during a public meeting on _____, 2023.

Sincerely,

CHATTANOOGA CITY COUNCIL

By: _____

Demetrus Coonrod
Councilwoman
District 9

Attachments

2021 Tennessee Code

Title 39 - Criminal Offenses

Chapter 17 - Offenses Against Public Health, Safety and Welfare

Part 4 - Drugs

§ 39-17-418. Simple Possession or Casual Exchange

Universal Citation: TN Code § 39-17-418 (2021)

- a. It is an offense for a person to knowingly possess or casually exchange a controlled substance, unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of professional practice.
- b. It is an offense for a person to distribute a small amount of marijuana not in excess of one-half ($\frac{1}{2}$) ounce (14.175 grams).
- c.
 1. Except as provided in subsections (d) and (e), a violation of this section is a Class A misdemeanor.
 2.
 - A. A violation of subsection (a) with respect to any amount of methamphetamine shall be punished by confinement for not less than thirty (30) days, and the person shall serve at least one hundred percent (100%) of the thirty (30) day minimum.
 - B.
 - i. The thirty (30) day minimum sentence required by subdivision (c)(2) (A) shall not be construed to prohibit a person sentenced pursuant to this subsection (c) from participating in a drug or recovery court that is certified by the department of mental health and substance abuse services.

- ii. Any person participating in such a court may receive sentence credit for up to the full thirty (30) day minimum required by subdivision (c) (2)(A).
- d. A violation of subsections (a) or (b), where there is casual exchange to a minor from an adult who is at least two (2) years the minor's senior, and who knows that the person is a minor, is punished as a felony as provided in § 39-17-417.
- e. A violation under this section is a Class E felony where the person has two (2) or more prior convictions under this section and the current violation involves a Schedule I controlled substance classified as heroin.
- f.
 1. In addition to the other penalties provided in this section, any person convicted of violating this section for possession of a controlled substance may be required to attend a drug offender school, if available, or may be required to perform community service work at a drug or alcohol rehabilitation or treatment center.
 2. Any person required to attend a drug offender school pursuant to this subsection (f) shall also be required to pay a fee for attending the school. If the court determines that the person, by reason of indigency, cannot afford to pay a fee to attend the school, the court shall waive the fee and the person shall attend the school without charge. The amount of fee shall be established by the local governmental authority operating the school, but the fee shall not exceed the fee charged for attending an alcohol safety DUI school program if such a program is available in the jurisdiction. All fees collected pursuant to this subsection (f) shall be used by the governmental authority responsible for administering the school for operation of the school.

Statement from President Biden on Marijuana Reform

As I often said during my campaign for President, no one should be in jail just for using or possessing marijuana. Sending people to prison for possessing marijuana has upended too many lives and incarcerated people for conduct that many states no longer prohibit. Criminal records for marijuana possession have also imposed needless barriers to employment, housing, and educational opportunities. And while white and Black and brown people use marijuana at similar rates, Black and brown people have been arrested, prosecuted, and convicted at disproportionate rates.

Today, I am announcing three steps that I am taking to end this failed approach.

First, I am announcing a pardon of all prior Federal offenses of simple possession of marijuana. I have directed the Attorney General to develop an administrative process for the issuance of certificates of pardon to eligible individuals. There are thousands of people who have prior Federal convictions for marijuana possession, who may be denied employment, housing, or educational opportunities as a result. My action will help relieve the collateral consequences arising from these convictions.

Second, I am urging all Governors to do the same with regard to state offenses. Just as no one should be in a Federal prison solely due to the possession of marijuana, no one should be in a local jail or state prison for that reason, either.

Third, I am asking the Secretary of Health and Human Services and the Attorney General to initiate the administrative process to review expeditiously how marijuana is scheduled under federal law. Federal law currently classifies marijuana in Schedule I of the Controlled Substances Act, the classification meant for the most dangerous substances. This is the same schedule as for heroin and LSD, and even higher than the classification of fentanyl and methamphetamine – the drugs that are driving our overdose epidemic.

Finally, even as federal and state regulation of marijuana changes, important limitations on trafficking, marketing, and under-age sales should stay in place.

Too many lives have been upended because of our failed approach to marijuana. It's time that we right these wrongs.