



GOVERNMENT OF THE DISTRICT OF COLUMBIA
MURIEL BOWSER, MAYOR

INITIATIVE 71

MARIJUANA WORKING GROUP

STATUS REPORT

FEBRUARY 2016



GOVERNMENT OF THE
DISTRICT OF COLUMBIA
MURIEL BOWSER, MAYOR

This report summarizes the findings of the District of Columbia Marijuana Working Group from its inception in February 2015 to present. During this period, several policy questions arose as a result of recent changes in laws affecting marijuana use in the District. Likewise, the city also mobilized to effectively implement modifications to the Medical Marijuana program. This report looks at recent laws affecting marijuana use in the District and some of the impacts, policy implications and solutions to emerging issues.

BACKGROUND

Building on the decriminalization of marijuana in the District in July 2014¹, in November 2014, residents of the District of Columbia voted to legalize the indoor, home cultivation of limited amounts of marijuana, as well as its possession and home use by adults in limited quantities. Following that referendum and the certification of its results, the Council submitted it to Congress. The passive Congressional review ended on February 26, 2015, whereupon the referendum, known as Initiative 71, went into effect.²

After the referendum, Congress inserted a clause in a Congressional spending bill that prohibited federal or local funds from being used to “enact any law, rule, or regulation to legalize or otherwise reduce penalties associated with the possession, use, or distribution of any schedule I substance.”³ Because the Initiative had already enacted a new legalization regime, the rider did not block implementation of its provisions, but it blocked further efforts to legalize or reduce penalties for marijuana-related offenses.

Mayor Muriel Bowser established the Marijuana Working Group to coordinate enforcement, awareness and engagement efforts, and to address policy questions as they arise.

The Working Group operates from a framework of collaborative, data-driven decision-making across sectors and policy areas. Led by the Department of Health and the Metropolitan Police Department, the Working Group included representatives from the Office of the Deputy Mayor for Public Safety and Justice, the Office of the Deputy Mayor for Education, the Department of Behavioral Health, the Fire and Emergency Medical Services Department, the Department of Consumer and Regulatory Affairs, the Department of Employment Services, the Mayor’s General Counsel, the Mayor’s Office of Legal Counsel, the Department of Human Resources, and others.

MISSION

The mission of the Marijuana Working Group is to ensure that all laws and regulations related to marijuana in the District of Columbia are implemented effectively and responsibly; to discuss and formulate policies related to marijuana regulation; to monitor the effects of such policies on the health and safety of residents and visitors; and educate the public – especially youth and young adults – on the health effects of marijuana.

¹ Marijuana Decriminalization Amendment Act of 2014, D.C. Law 20-126, 61 DCR 3482 (July 17, 2014).

² Legalization of Possession of Minimal Amounts of Marijuana for Personal Use Initiative of 2014, D.C. Law 20-153, 62 DCR 880 (Feb. 26, 2015).

³ See Section 809 of the Consolidated and Further Continuing Appropriations Act of 2015, Pub. L 113-235 (Dec. 16, 2014).

FIRST STEPS

In recognition of the cross-cutting issues involved in implementing new laws on marijuana, the Mayor tasked all affected agencies with identifying how the new laws would affect their operations and what issues they foresaw. One critical issue that emerged was the apparent gap between public perception of legalization and the actual limits of the new laws. For example, it remains illegal to sell any amount of marijuana or to consume it in public. Additionally, the District's legalization program had no impact on the continued federal prohibition on possession or use of marijuana for recreational purposes. As a result, the Working Group identified a need to communicate to residents the limits of the law. The tag line, "Home Grow, Home Use" was an easy slogan to remind the public that they could not smoke marijuana in public, even under legalization. The D.C. Housing Authority sent correspondence to all federally-funded public housing residents informing them that, notwithstanding the liberalization of D.C.'s laws, federal law still applied and the use of marijuana was prohibited in their residence.

The Working Group also determined that it needed to establish baselines to understand any impact the new laws were having on marijuana use – especially by youth and young adults – and arrests for possession, use, and sale of marijuana.

UNDERAGE MARIJUANA USE TRENDS IN THE DISTRICT OF COLUMBIA

The District of Columbia's eight Wards are home to a growing and diverse population. After decades of population loss, the population of the District has grown from 572,059 residents in 2000 to 672,228 in July, 2015; 115,306 of these residents are under 18 years old.⁴

Underage drinking and marijuana use are the priority drug issues among youth under age 18 in the District. According to data from the National Survey on Drug Use and Health, and the Youth Risk Behavior Survey, while underage drinking has declined over the past six years, some trends regarding underage marijuana use are of concern, such as:

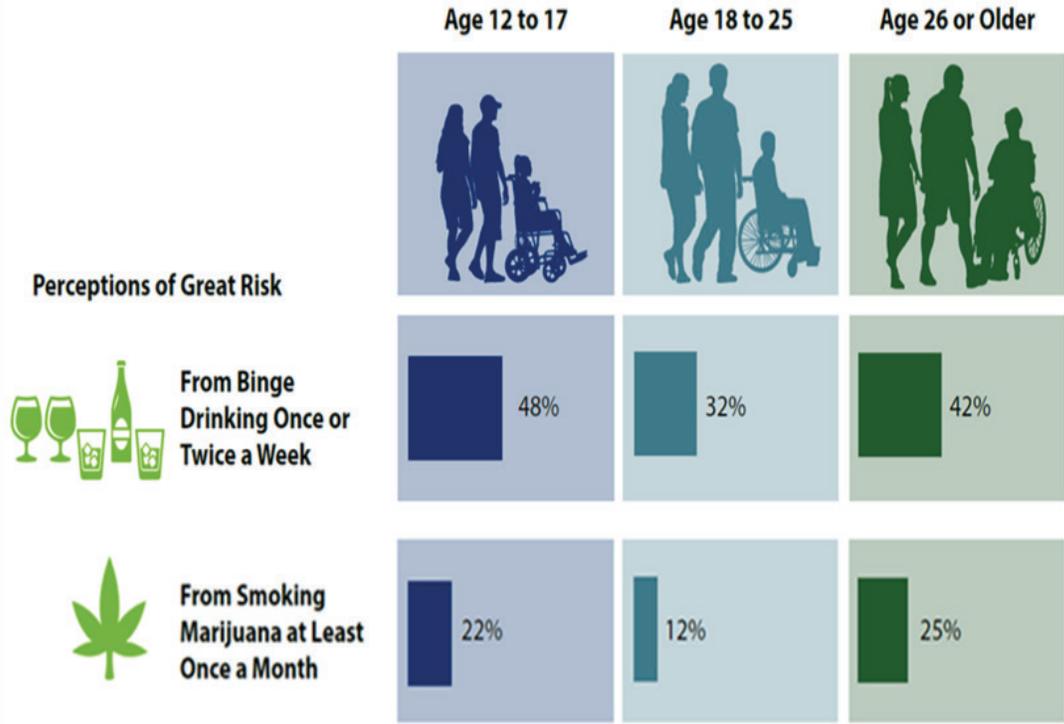
- (1) decreased perceptions of risk and harm of marijuana use among youth;
- (2) decreased age of first marijuana use; and
- (3) increased frequency of marijuana use among youth.

We do not yet have sufficient data to determine whether decriminalization and Initiative 71's limited legalization (which only applies to adults) are signaling to youth that marijuana use is appropriate, harmless or legally risk-free. However, we have baseline data from just before these legal changes, showing that changes were already underway.⁵

⁴ United States Census Bureau, QuickFacts, <http://www.census.gov/quickfacts/table/PST045215/00,11>.

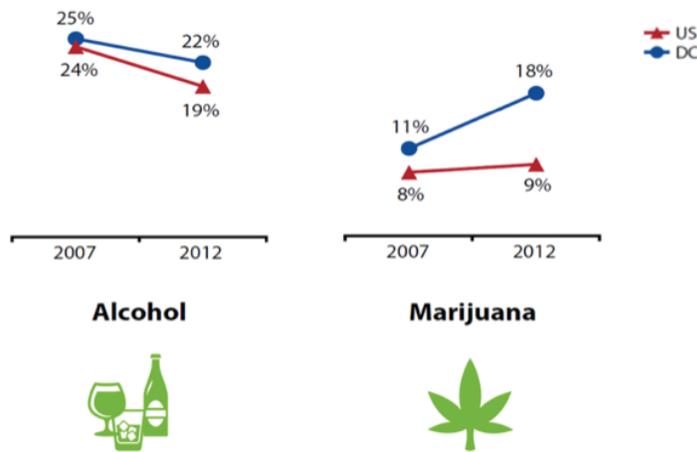
⁵ Ost, Julie C. & Maurizi, Laur K., 2012 District of Columbia Youth Risk Behavior Survey Surveillance Report. Office of the State Superintendent of Education, Washington, DC (2013).

Perceptions: Great Risk of Use. Data Source: NSDUH Special Request, 2012-2013



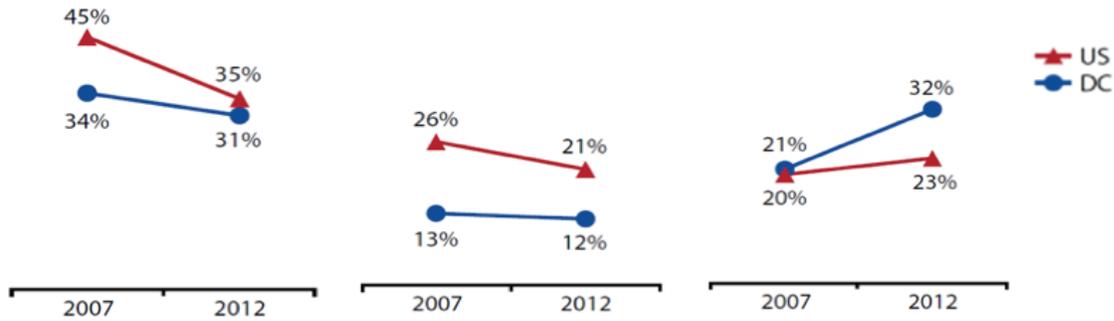
Youth perceive a greater risk from binge drinking (49%) once or twice a week than from smoking marijuana (22%) at least once a month.

Percentage of First Use Before Age 13, by Substance and Year. Data Source: YRBS High School 2007 and 2012



Substance a Greater percentages of District high school students tried marijuana before age 13 than in the U.S. overall. In the District, the percentage of high school students drinking alcohol before age 13 decreased while the percentage reporting they used marijuana before age 13 increased.

Percentage of High School Students Reporting Past-Month Substance Use by Substance and Year. Data Source: YRBS, 2007 and 2012



Alcohol



DC high school youth had slight, but significant decreases in past month use in 2012.

Binge Drinking



A little more than 1 in 10 District high school students reported binge drinking in both 2007 (13%) and 2012 (14%).

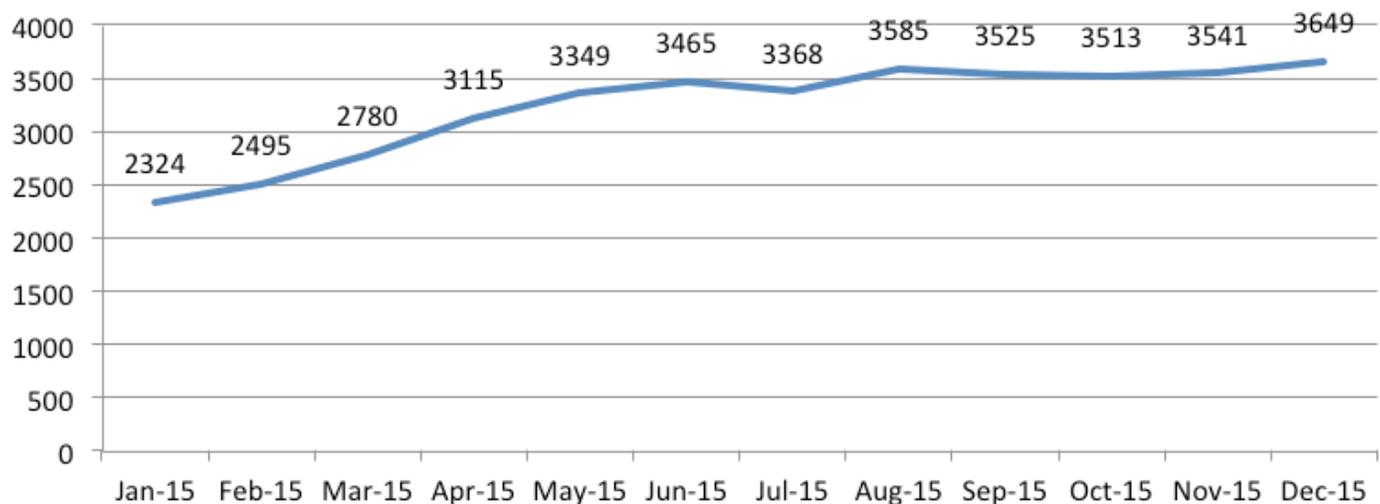
Marijuana



Marijuana use among District high school students increased by approximately 50%. This outpaced the much smaller use increase among U.S. high school students.

As of December 31, 2015, 3,649 patients were enrolled in the District of Columbia Medical Marijuana Program. As of early 2016, the Department of Health is processing an average of 276 patients per month; of those, an average of 118 patients are renewing their enrollment. The Department processes applications with all required documentation within five business days.

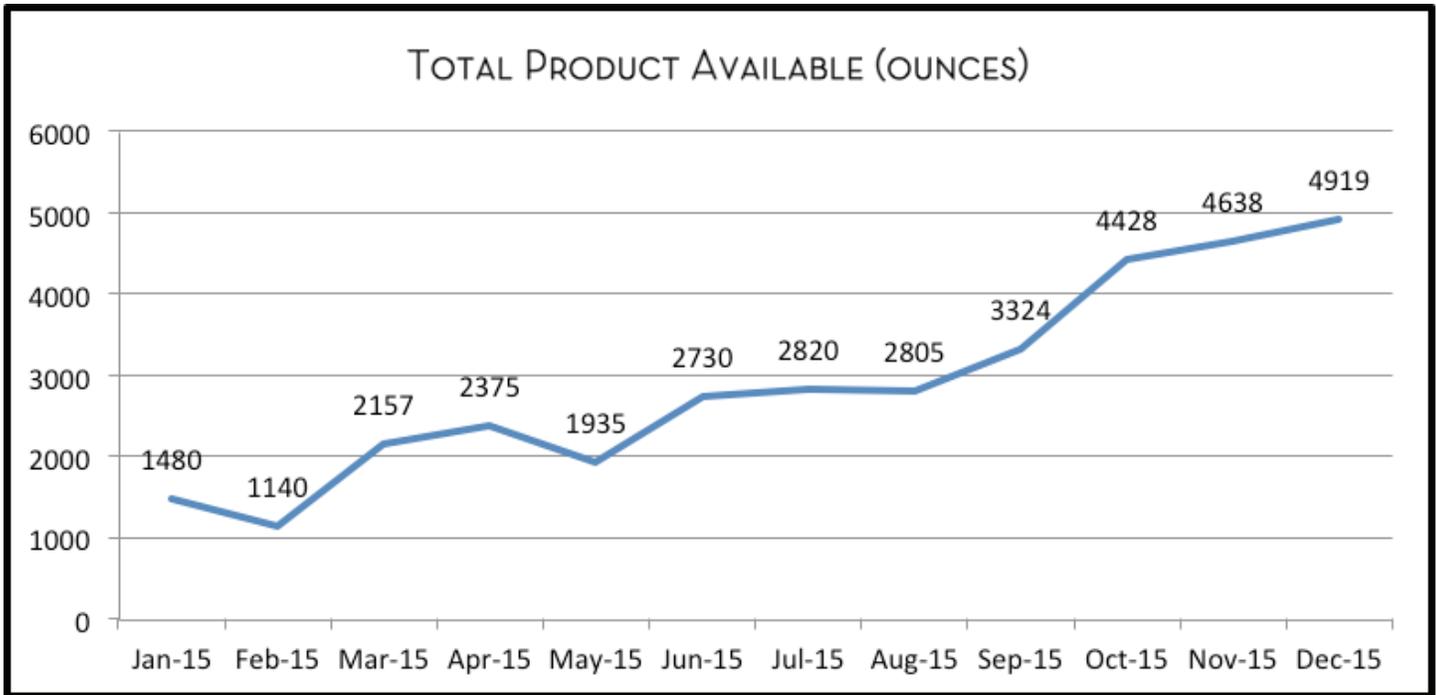
REGISTERED MEDICAL MARIJUANA PATIENTS



Seven cultivation centers and five dispensaries are currently open for business. Two new cultivation centers received registrations from the Department of Health in July and August 2015 and have started to grow plants. These plants will take approximately 16 weeks to grow, harvest and produce product for the dispensaries. The Department of Health also registered two new dispensaries in July 2015.

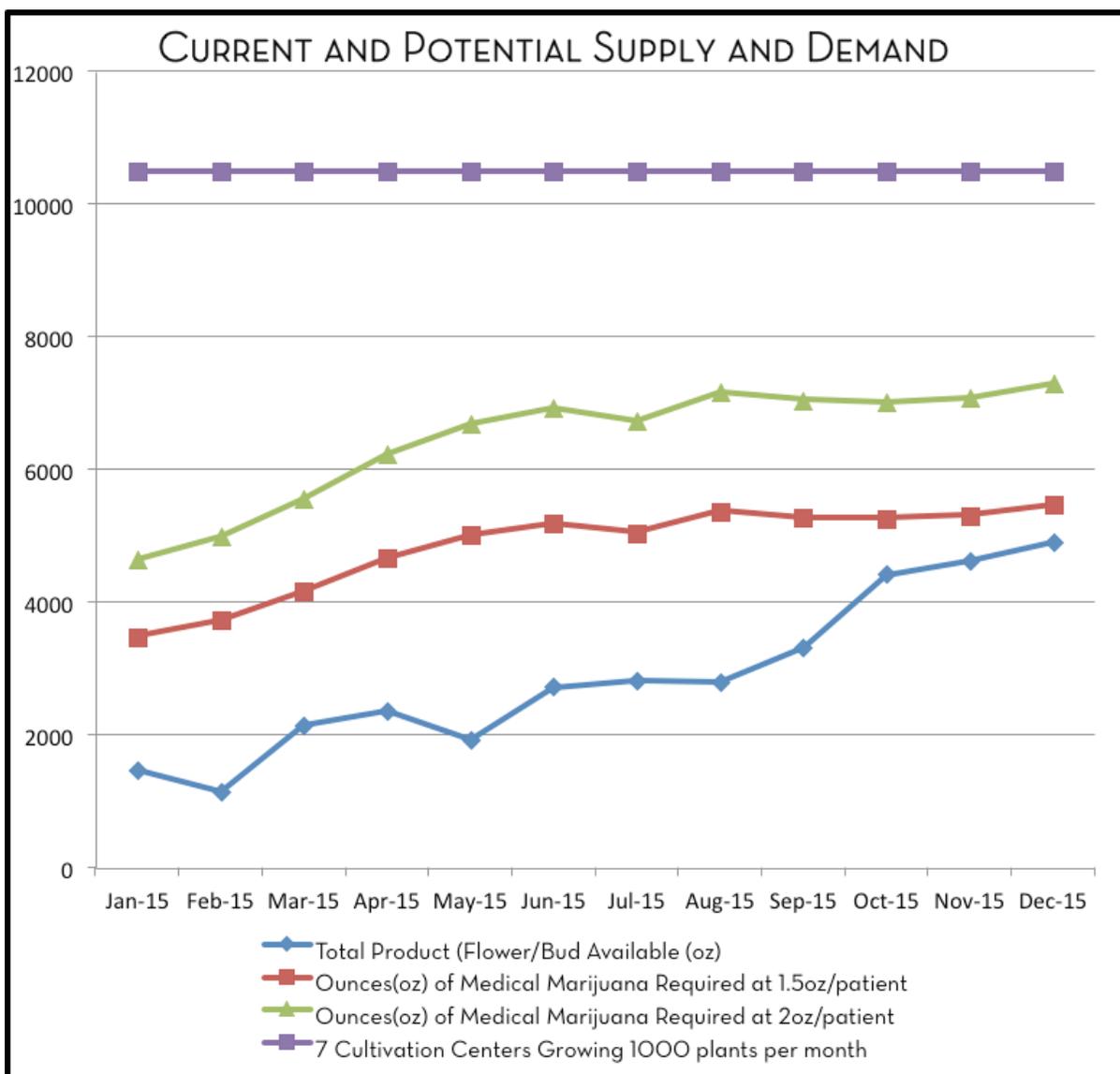
Dispensaries	Ward	Cultivation Centers	Ward
Capital City	5	Abatin Wellness	5
Metropolitan Wellness	6	Alternative Solutions	5
Takoma Wellness	4	Capitol City	5
Herbal Alternatives	2	District Growers	5
National Holistic Healing Center	2	Holistic Remedies	5
		Organic Wellness	5
		Apelles	4

Currently, all seven cultivation centers are growing living marijuana plants, but only five harvested marijuana in 2015. The two new cultivation centers anticipate a harvest in early 2016. The yield from all actively harvesting cultivation centers was approximately 4,919 ounces for the month of December 2015. Although the maximum plant limit, by law, is 1,000 living plants, only two of the cultivation centers are growing close to the maximum number of plants.



Information obtained from the dispensaries indicates that the average patient purchase over the last 12 months has been approximately 1.5 ounces of medical marijuana per month. If each patient currently enrolled in the program (3,649 patients as of December 2015) purchased the maximum amount of marijuana allowed by law – two ounces per month – 7,298 ounces would be required.

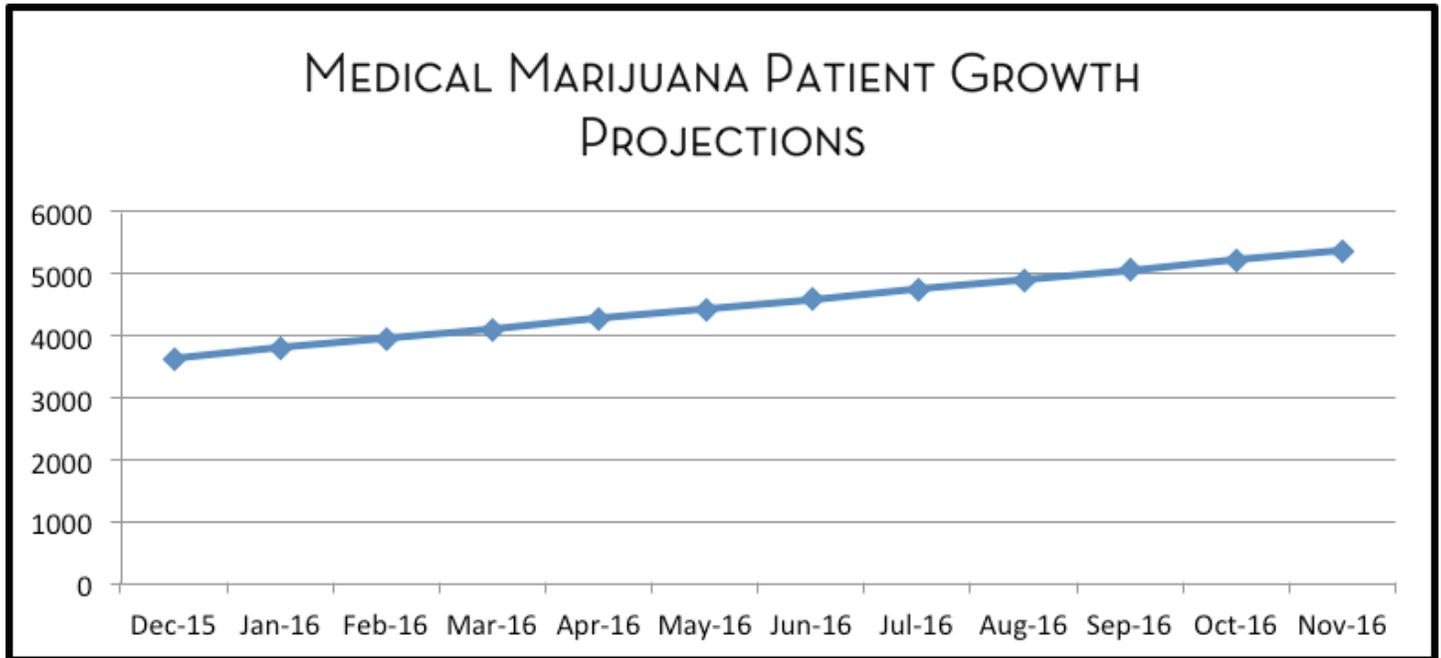
Based on the average patient purchase of marijuana (1.5 ounces per month), the total amount of marijuana needed is 5,474 ounces. If each of the seven cultivation centers grows 1000 plants and harvests 300 plants per month (based on plant growth cycle), there would be approximately 10,500 ounces available each month for patients to purchase. This number is based on each medical marijuana plant producing five ounces at harvest. The Department of Health understands that every patient may not purchase medical marijuana each month and different types of medical marijuana are available for patients to purchase such as tinctures,⁶ keef,⁷ and beverages.



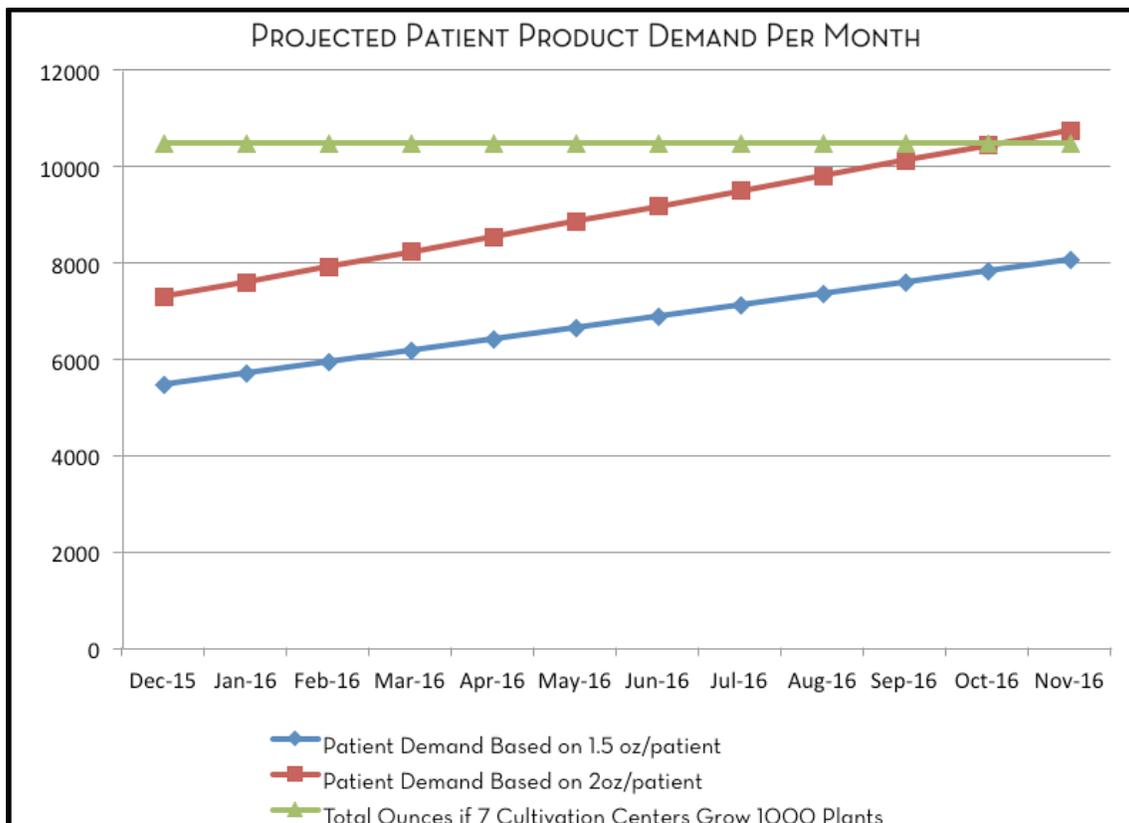
⁶ Tinctures are a liquid concentration of cannabis, where the active ingredients have been leached out into alcohol. Through a dropper, a few drops are placed under the tongue and effects are felt within minutes.

⁷ Keef, sometimes spelled kif or kif, are the marijuana plant’s resin glands containing terpenes and cannabinoids. Resin glands developing on flower buds deliver a powerful dose of the psychoactive substances to the user.

In 2016, the medical marijuana patient population is projected to continue to increase but not as quickly as in 2015. An average of 145 new patients per month will necessitate greater supply.



Based on the projected medical marijuana patient growth, 8,081 ounces will be required per month by November 2016 if each patient purchases 1.5 ounces per month, consistent with current demand. If each patient purchased the legally allowable maximum of two ounces per month, then 10,774 ounces per month would be required by November 2016.



SAFETY AND CRIME RELATING TO MEDICAL MARIJUANA.

As far the Working Group is aware, no cultivation center has experienced any thefts, break-ins, or compromises to their inventory controls. Although cultivation centers are not open to the public, do not serve customers, and do not generate any foot traffic, they are nevertheless highly-secured facilities, with extensive video camera systems and restricted access inside the facilities themselves.

Criminal activity at dispensaries has been minimal: one incident of theft was reported that involved a patient stealing a package of marijuana when presented with several types for examination and purchase. The incident was captured by a surveillance camera and the patient was later arrested. A second theft involved an unattended cell phone taken by a patient. This incident was also captured on surveillance camera and the patient was asked to return the item. Security protocols mandated by the medical marijuana program regulations appear to have been effective in deterring crime at program facilities.

To ensure continued compliance with safety requirements, the Department of Health and the Metropolitan Police Department conduct monthly inspections of the facilities, jointly.

INITIATIVE 71 AND THE DISTRICT'S MARIJUANA LAWS

Initiative 71 became law in the District of Columbia in February 2015. Under Initiative 71 and DC's marijuana laws, it is legal for adults 21 years of age or older to:

- Possess two ounces or less of marijuana;
- Grow within their primary residence up to six marijuana plants, no more than three of which are mature;
- Transfer one ounce or less of marijuana to another person as long as: (1) no money, goods, or services are exchanged; and (2) the recipient is 21 years of age or older; and
- Consume marijuana on private property.

Even with the enactment of Initiative 71, it remains a crime for anyone to:

- Possess more than two ounces of marijuana;
- Smoke or consume marijuana on public space or anywhere to which the public is invited;
- Sell any amount of marijuana to another person; or
- Operate a vehicle or boat under the influence of marijuana.

Anyone under 21 years of age is still prohibited from possessing any amount of marijuana. If marijuana is found in the possession of a youth under 21 years of age, police will seize the marijuana. If the person has more than two ounces, the person can also be arrested.

☆☆☆ GOVERNMENT OF THE DISTRICT OF COLUMBIA ☆☆☆
MURIEL BOWSER, MAYOR

Facts on Marijuana in DC

D.C.'s Initiative 71 Legalizes Possession of
Minimal Amounts of Marijuana for Personal Use

21 and older

An individual 21 years of age or older will be able to lawfully:

- Possess two ounces or less of marijuana;
- Use marijuana on private property;
- Transfer one ounce or less of marijuana to another person, as long as:
 - (1) no money, goods or services are exchanged; and
 - (2) the recipient is 21 years of age or older;
- Cultivate within his or her primary residence up to six marijuana plants, no more than three of which are mature.

However, even with the enactment of Initiative 71, it remains a crime for anyone to:

- Possess more than two ounces of marijuana;
- Smoke or otherwise consume marijuana on public space or anywhere to which the public is invited; including restaurants, bars, and coffee shops;
- Sell any amount of marijuana to another person; or
- Operate a vehicle or boat under the influence of marijuana.

Anyone under 21 years of age is still prohibited from possessing any marijuana.

Initiative 71 does not legalize marijuana sales



Government of the District of Columbia
Muriel Bowser, Mayor

ENFORCING THE NEW MARIJUANA LAWS

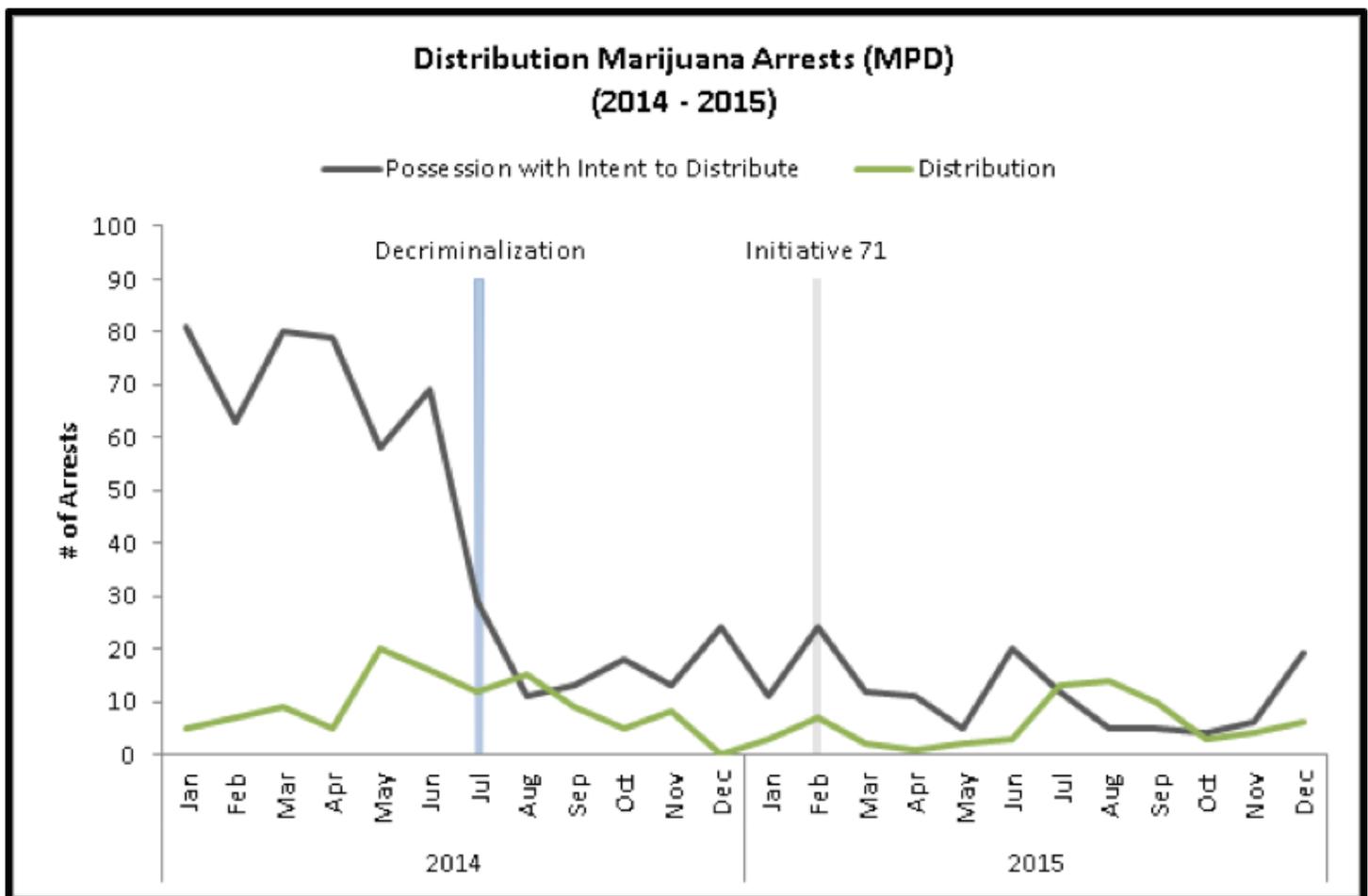
The District’s laws related to the recreational use and possession of marijuana changed at two milestones: the effective dates of the Marijuana Possession Decriminalization Amendment Act of 2014 on July 17, 2014, and of Initiative 71 on February 26, 2015. Arrests related to marijuana actually changed more dramatically with decriminalization in 2014 than with legalization of home growth and home use in 2015.

Arrests for possession of marijuana plummeted after decriminalization and there was little change after Initiative 71 went into effect. At the same time, Public Consumption of Marijuana first became a unique criminal violation in July 2014.

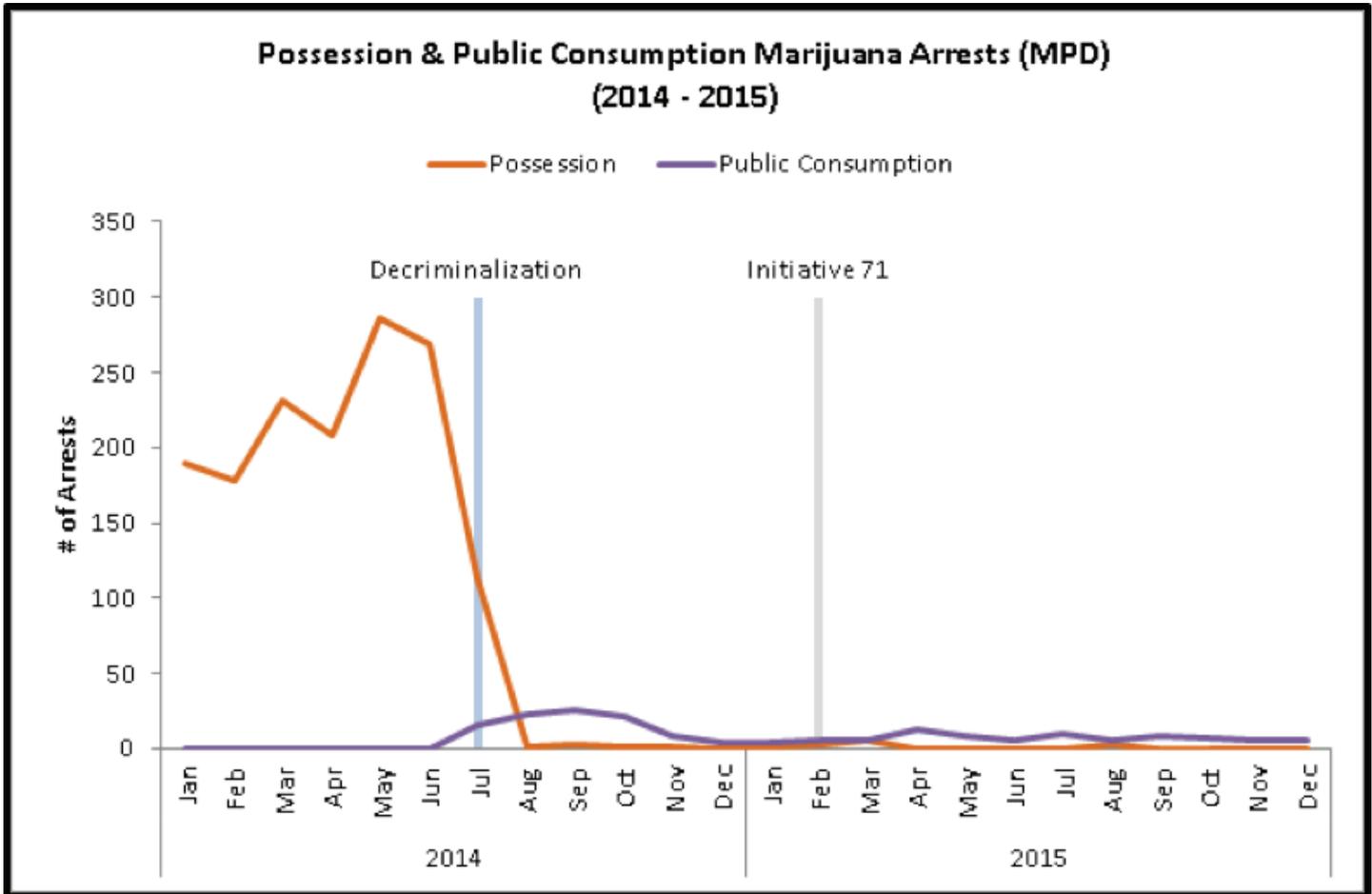
The new marijuana laws also changed the standards for evidence for the crimes of distributing marijuana or possessing with intent to distribute marijuana. While arrests for these charges vary significantly from month to month, they have generally declined since the law was changed.

IMPACT OF INITIATIVE 71 ON ARREST TRENDS

Arrests for Possession & Arrests for Distribution of Marijuana



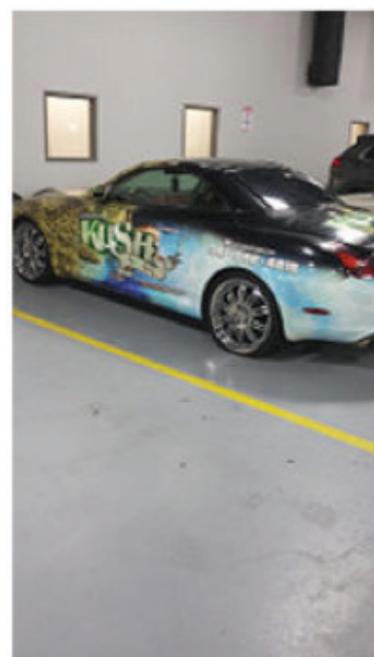
Arrests for Possession & Public Consumption of Marijuana



SOME POSSIBLE PENALTIES FOR MARIJUANA VIOLATIONS

- Consuming in Public: 60 days in jail; up to \$500 fine.
- Selling Marijuana: Six months in jail; \$1,000 fine for first offense
- Distribution, Manufacturing and Possession with Intent to Distribute: Up to 5 years in jail; fine of up to \$50,000
- Restaurant and Business Owners Who Allow Marijuana Use: Revocation of business license
- Use in federally-subsidized public housing: Possible eviction
- Otherwise legal use: Denial of federal job or loss of security clearance

Throughout 2015, the Task Force stayed in communication regarding events and initiatives that sought to evade the continuing prohibitions on the sale of marijuana. For instance, the proprietors of “Kush Gods” talked to the media about trading pot-laced brownies and other edibles for “donations” as they drove their vehicles, decorated with images of marijuana leaves, around places like U Street and Adams Morgan. But the scale of the Kush Gods’ operation was far bigger than a cupcake – undercover officers said that they bought hundreds of dollars of drugs. Kush Gods’ rolling marijuana emporium resulted in arrests in December, 2015, misdemeanor charges for distribution of marijuana, and seizure of the vehicles. <http://mpdc.dc.gov/release/arrests-made-marijuana-distribution-case>.



In a second matter, MPD made arrests in connections with a purported charitable enterprise that “gave” marijuana as something like a donor premium. There have not been any known instances of retail establishments selling marijuana or marijuana-infused products to the general public.

PUBLIC EDUCATION

Public education about the law and its limits, as well as about the health effects of marijuana, has been a major focus of many District agencies since Initiative 71 went into effect, and it continues to be a focus. After implementation of Initiative 71, the Metropolitan Police Department worked to educate the public about the key changes in the law through several mechanisms. All police officers were trained on the new law to ensure that it would be appropriately applied and enforced, and so that officers could be an information resource for the public.

In addition to distributing marijuana decriminalization fact sheets online, at MPD stations, and in community meetings, officers had small information cards to share with the public while on their beat. MPD officers and civilian staff conducted briefings at community meetings and with key individuals and groups who could further disseminate information, such as staff of the Council of the District of Columbia, the Business Improvement Districts Council, and the media. The fact card is reprinted below.



KNOW THE FACTS

About Marijuana in DC

Possession of marijuana is now legal in the District of Columbia for adults 21 & older in some circumstances. Know the facts!

- » If you're 21 & over, you can possess up to 2 ounces of marijuana, grow up to 6 cannabis plants in your home (no more than 3 of which are mature), or give away up to 1 ounce of marijuana to another person that's at least 21 years old.
- » If you're under 21, you cannot possess any amount of marijuana. Any marijuana can be seized by an officer.
- » You can be arrested if you smoke or consume marijuana in public, have more than 2 ounces, or sell any amount of marijuana.
- » Driving while under the influence of marijuana is a dangerous crime and will be prosecuted.
- » Under federal law, federal law enforcement officers may arrest anyone in the District for possession of any amount of marijuana.
- » To learn more, please visit www.mpd.dc.gov/marijuana.



KNOW THE FACTS

About Marijuana in DC

You shouldn't use marijuana just because local laws have changed.

- » Some studies indicate that marijuana use may have serious long-term effects, especially when used by children or teens.
- » Marijuana use while pregnant may pose health risks to the fetus.
- » Operating a vehicle or heavy machinery after using marijuana may lead to serious injury and arrest.
- » To find out about substance use disorder prevention and treatment services, please call the **DC Department of Behavioral Health Access Helpline** at **1-888-793-4357** or visit **dbh.dc.gov**
- » If your marijuana was seized by an MPD officer because you didn't provide proof of age, you can retrieve the marijuana by bringing the ticket issued by the officer and proof of your age to the police station in the district where the seizure occurred, no sooner than 24 hours & no later than 21 days after it was seized.

February 2015

*** GOVERNMENT OF THE DISTRICT OF COLUMBIA ***
MURIEL BOWSER, MAYOR

Facts on Marijuana in DC



2oz. ✓

Possession

For 21+: Legal to possess 2 oz. or less

Criminal penalty for possession of more than 2 oz.

Persons under 21 still cannot possess any amount of marijuana.



Transfer

For 21+: No civil or criminal penalty for transfer of 1 oz. or less without payment of any kind.

For under 21: Seizure of the marijuana.

No transfer of more than 1 oz.



Home Grow

Up to 6 plants, of which no more than 3 can be mature.

In a residence with multiple adults who are 21 and over, up to 12 plants, of which no more than 6 can be mature.

Not permitted for anyone under 21.



Selling is NOT permitted



Public Consumption Not permitted



Driving While High Not permitted



Consumption in Public Housing is Not permitted

On August 11, 2015, the Department of Behavioral Health issued a one-year contract to Octane Public Relations, LLC to develop an educational campaign to prevent underage marijuana use among youth ages 12 to 18. Contract deliverables include: conducting formative evaluation including focus groups; analyzing findings and recommending key messages and creative direction; developing a work plan with timelines, product development, earned media opportunities and translation of products; and implementing the work plan and evaluation. The campaign went live on December 10, 2015, and materials can be found at <http://drugfreeyouthdc.com/thebluntruth/>.



PREVENTION FAST FACTS

Marijuana acts as a depressant or “downer” and actually reduces your brain’s capacity to learn and remember new things.

Marijuana also causes you to have more chest colds, bronchitis, emphysema, and bronchial asthma. Persistent use will damage your lungs and airways raising your risk for cancer. It also limits the immune system’s ability to fight off diseases for your body.

Echoing the same message, that just because marijuana is legal for adults does not mean that it's legal to give marijuana to a minor, or that marijuana is harm-free, the Deputy Mayor for Education (DME) met with the Consortium of Universities of the Washington Metropolitan Area in June, 2015. The Consortium is a leading educational collaborative, comprising 15 Washington-area colleges and universities, representing nearly every sector of higher education. The DME and the Consortium discussed how to share information about Initiative 71 with District colleges and universities.

In an effort to educate students and families, the DME utilized the weekly Public Charter School Board (PCSB) bulletin to disseminate appropriate Initiative 71 information to charter school leaders and will also share relevant information with District of Columbia Public School (DCPS) principals.

PRIVATE MARIJUANA CLUBS

The Marijuana Decriminalization Clarification Emergency Amendment Act of 2015 (DC Act 21-19) and subsequent extensions of that Act⁸ were enacted to prevent the opening and operation of “private clubs” that would allow the consumption of marijuana on its premises. The legislation clarified ambiguity in the existing marijuana laws that could have been interpreted as allowing the consumption of marijuana at self-described “private clubs.”

The legislation made clear that a “private club” includes “any building, facility, or premises used or operated by an organization or association for a common avocational purpose, such as a fraternal, social, educational, or recreational purpose,” but excludes “a private residence.” This is in keeping with the District’s overall marijuana policy allowing for the personal possession and usage of marijuana by adults in their own homes. If an entity knowingly permits a violation of § 48-911.01 01 (a)(3) to occur, its license, certificate of occupancy or permit must be revoked pursuant to § 47-2844(a-1)(1)(D). At this time, the Department of Consumer and Regulatory Affairs has not suspended the business license or certificate of occupancy of any entity.

In early February 2016, the Council established a task force to study and make recommendations regarding the licensing and operation of venues, including private clubs, at which marijuana may be consumed.⁹

CONGRESSIONAL PROHIBITION

After the referendum was enacted, Congress inserted a clause in a Congressional spending bill that prohibited federal or local funds from being used to “enact any law, rule, or regulation to legalize or otherwise reduce penalties associated with the possession, use, or distribution of any schedule I substance.”¹⁰ Specifically, the language prohibits the District from spending any money to set up a system to regulate and tax the sale of marijuana, as Colorado, Washington state and Oregon have done through referenda.

It is unclear at this point whether Congress will extend this prohibition. The House Appropriations¹¹ Committee has reported¹² to the committee of the whole a 2016 Financial Services and General Appropriations bill that includes a marijuana regulation rider identical to that contained in the 2015 Act.¹³ However, unlike in 2015,¹⁴ the Senate version of this bill does not, as yet, contain the marijuana regulation prohibition.¹⁵ As a result, the continuation of the marijuana regulation prohibition will be determined by Congress’s negotiations in reconciling the two legislative bodies’ competing bills.

⁸ See the Marijuana Decriminalization Clarification Temporary Amendment Act of 2015 (DC Law 21-11), the Marijuana Decriminalization Clarification Emergency Amendment Act of 2016 (DC Act 21-273), and the Marijuana Decriminalization Clarification Temporary Amendment Act of 2016 (Bill 21-550)

⁹ The Marijuana Decriminalization Clarification Emergency Amendment Act of 2016 (DC Act 21-273)

¹⁰ See Section 809 of the Consolidated and Further Continuing Appropriations Act of 2015, Pub. L. 113-235 (Dec. 16, 2014).

DC PERSONNEL MANUAL; GOVERNMENT EMPLOYEES; DRUG TESTING

The Department of Human Resources (DCHR) oversees the administration of the drug testing program for safety-sensitive employees covered by the Child and Youth Health and Safety Act of 2004 for most District agencies. Both recreational as well as medical marijuana can come into play when carrying out the drug testing program.

Recreational usage of marijuana is prohibited for employees engaged in safety-sensitive positions. To clarify that prohibition, on August 4, 2015, DCHR issued Instruction No. 39-3, Initiative 71 - Impact on Mandatory Drug and Alcohol Testing, which reiterated that there had been no change in policy as a result of Initiative 71. According to DCHR records, since January, 2015, the agency removed seven safety-sensitive employees for marijuana use.

Currently, no specific policy addresses medical marijuana usage by District employees. Theoretically, these patient/employees will be evaluated on a case-by-case basis under the same scrutiny as any other prescribed medication. However, the only cases that have come to light thus far have been for marijuana prescribed in Maryland; where medical marijuana is not yet legal because no Maryland dispensaries are in operation at present. DCHR will continue to evaluate whether specific guidance on medical marijuana should be issued.

One ongoing challenge is the inability to accurately test a person for marijuana impairment. A drug test may show only that a person has marijuana in their system, but may not be useful in determining when it was consumed and whether it has impaired the person.

¹¹ <http://appropriations.house.gov/news/documentsingle.aspx?DocumentID=394251> ("In addition, the legislation maintains provisions prohibiting federal and local funds from being used for abortion or to further marijuana legalization, and a prohibition on federal funds from being used for needle exchanges in the District of Columbia")

¹² <http://appropriations.house.gov/uploadedfiles/bills-114hr-fc-ap-fy2016-ap00-fservices.pdf> (reported to committee of the whole)

¹³ https://www.washingtonpost.com/local/dc-politics/house-budget-bill-would-outlaw-marijuana-sales-in-dc-for-two-years/2015/06/11/ffd763ae-1051-11e5-aded-e82f8395c032_story.html

¹⁴ <http://www.gpo.gov/fdsys/pkg/BILLS-113hr5016rfs/pdf/BILLS-113hr5016rfs.pdf> (2015 senate bill)

¹⁵ <http://www.gpo.gov/fdsys/pkg/BILLS-114s1910pcs/pdf/BILLS-114s1910pcs.pdf> (2016 senate bill)

POSSESSION ON SCHOOL PROPERTY

D.C. Code §48-904.07a addresses possession on school property. It states that all areas within 1000 feet of a public or private day care center, elementary school, vocational school, secondary school, public charter school, junior college, college, or university, or any public swimming pool, playground, video arcade, youth center, public library, or in and around public housing shall be declared a drug free zone. Further, distributing or possessing with the intent to distribute within this zone shall be punished by a fine up to twice that otherwise authorized. To our knowledge, there have been no prosecutions for violations of this section, nor is it entirely clear whether someone may possess (but not smoke) up to two ounces within the 1000 foot zone pursuant to the later-enacted Initiative 71.

RENTAL HOUSING PROPERTY CONSIDERATIONS

Initiative 71 protects rental property owners' rights to allow or prohibit the possession or use of marijuana in their properties. Specifically, the law states that nothing "shall prohibit any person, business, organization... who owns or controls any real property from prohibiting or regulating the possession, consumption, use...or growing of marijuana on or in that property."

After the enactment of Initiative 71, the Department of Consumer and Regulatory Affairs, which regulates all licensed rental housing providers in the District, encouraged rental property owners to review their leasing documents and smoking policies to clarify the applicable rules for their tenants. Rental property owners should make clear to their tenants and in their leases whether the growing of marijuana plants or use of recreational marijuana at the rental property is allowed.

CONCLUSION

The District's marijuana laws and policies continue to evolve to meet the needs of our residents. Mayor Bowser has tasked the Marijuana Working Group to continue to coordinate enforcement, awareness, and engagement efforts to address policy questions as they arise and to identify and implement innovative, workable solutions.

