

**Carson City
Request for Board Action**

Date Submitted: December 6, 2013

Agenda Date Requested: December 19, 2013

Time Requested: 5 minutes

To: Mayor and Supervisors

From: Joseph L. Ward, Senior Deputy District Attorney

Subject Title: For Possible Action to adopt Bill No. 129, on second reading, Ordinance No. ____, an ordinance amending the Carson City Municipal Code (“CCMC”) Title 8, at Section 8.04.127, entitled “Marijuana possession without medical privilege card is a misdemeanor,” by adding sections pertinent to fines as required and addressed at Nevada Revised Statute (“NRS”) 453.3361.

Staff Summary: NRS 453.3361 allows local government to enact ordinances adopting penalties set forth for misdemeanors in NRS 453.336. This was done when CCMC 8.04.127 was promulgated. However, this ordinance currently does not set forth the manner in which money collected from fines is to be disbursed. NRS 453.3361 requires CCMC 8.04.127 to set forth such manner of disbursement in accordance with subsection 2 of NRS 453.3361, which requires that the fines be evenly allocated in a manner determined by the court among “(a) Nonprofit programs for the treatment of abuse of alcohol or drugs that are certified by the Health Division of the Department; (b) A program of treatment and rehabilitation established by a court pursuant to NRS 453.580, if any; and (c) Local law enforcement agencies.” NRS 453.3361(2).

Type of Action Requested: (Check One)

Resolution

Ordinance – Second Reading

Formal Action/Motion

Other (Specify)

Does this action require a Business Impact Statement: Yes No

Prior Board Action: Approved the ordinance on first reading on December 5, 2013, by a unanimous vote of 5.

Recommended Board Action: I move to adopt Bill No. 129 ____, on second reading, Ordinance No. ____, an ordinance amending Carson City Municipal Code Title 8, Public Peace, Safety and Morals, at Chapter 8.04, Prohibited Conduct, at Section 8.04.127 entitled “Marijuana Possession Without Medical Privilege Card Is Misdemeanor,” by adding sections pertinent to fines in accordance with Nevada Revised Statute 455.3361, and other matters properly related thereto.

Explanation of Recommended Board Action: Taking this action will facilitate fine disbursements pursuant to NRS 453.3361(2).

Applicable Statute, Code, Policy, Rule or Regulation: CCMC 8.04.127 and NRS 453.3361.

Fiscal Impact: None for this action

Funding Source: n/a

Explanation of Impact: n/a

Alternatives: Refer the matter back to staff or deny Bill No. 129, Ordinance No. ____ .

Supporting Material: Ordinance

Prepared By: Joseph L. Ward, Senior Deputy District Attorney

Reviewed By : _____ Date: _____
(Department Head)
: _____ Date: 12/10/13
(City Manager)
: _____ Date: 12/10/13
(District Attorney)
: Willie D. Pugh Date: 12/10/13
(Finance Director)

Board Action Taken:

Motion	_____	1) _____	Aye/Nay
		2) _____	_____

(Vote Recorded By)

Ordinance No. ____

Bill No. ____

AN ORDINANCE AMENDING THE CARSON CITY MUNICIPAL CODE TITLE 8, PUBLIC PEACE, SAFETY AND MORALS, AT CHAPTER 8.04, PROHIBITED CONDUCT, AT SECTION 8.04.127 ENTITLED "MARIJUANA POSSESSION WITHOUT MEDICAL PRIVILEGE CARD IS MISDEMEANOR," BY ADDING SECTIONS PERTINENT TO FINES IN ACCORDANCE WITH NEVADA REVISED STATUTE 453.3361, AND OTHER MATTERS PROPERLY RELATED THERETO.

Fiscal Effect: None

The Carson City Board of Supervisors does hereby ordain as follows:

SECTION 1: That Title 8, Public Peace, Safety and Morals, at Chapter 8.04, Prohibited Conduct, at Section 8.04.127 of the Carson City Municipal Code ("CCMC"), entitled "[m]arijuana possession without medical privilege card is misdemeanor," is hereby amended as follows (**bold underlined text** is added and stricken text is deleted) to address the manner in which money collected from fines is to be disbursed in accordance with Nevada Revised Statute ("NRS") 453.3361.

Chapter 8.04

PROHIBITED CONDUCT

SECTION 1:

...

8.04.127 - Marijuana possession without medical privilege card is a misdemeanor.

Except for possession of drug contraband by a prisoner which is still a felony under NRS 212.160, a person convicted of possession of one (1) ounce or less of marijuana:

1. For the first offense, is guilty of a misdemeanor and shall be:
 - a. Punished by a fine not more than six hundred dollars (\$600.00); or
 - b. Examined by an approved facility for the treatment of abuse of drugs to determine whether he is a drug addict and is likely to be rehabilitated through treatment and, if the examination reveals that he is a

drug addict and is likely to be rehabilitated through treatment, assigned to a program of treatment and rehabilitation pursuant to NRS 453.580.

2. For the second offense, is guilty of a misdemeanor and shall be:
 - a. Punished by a fine of not more than one thousand dollars (\$1,000.00); or
 - b. Assigned to a program of treatment and rehabilitation pursuant to NRS 453.580.
3. For the third offense, is guilty of a gross misdemeanor and shall be punished as provided in NRS 193.140.
4. For a fourth or subsequent offense, is guilty of a category E felony and shall be punished as provided in NRS 193.130.
- 5. Fines imposed pursuant hereto or pursuant to NRS 453.336 shall be, in a manner determined by the court, evenly allocated among:**
 - a. Nonprofit programs for the treatment of abuse of alcohol or drugs that are certified by the Health Division of the Nevada State Department of Health and Human Services;**
 - b. A program of treatment and rehabilitation established by a court pursuant to NRS 453.580, if any;**
and
 - c. Local law enforcement agencies.**

SECTION 2: No other provisions of the CCMC are affected hereby, except that all ordinances or parts of ordinances or sections, subsections, phrases, sentences, clauses or paragraphs contained in the CCMC in conflict herewith are hereby repealed.

PROPOSED on _____, 2013

PROPOSED by Supervisor _____

PASSED on _____, 2013

VOTES: AYES: Supervisors _____

VOTES: NAYS: Supervisors _____

ABSENT: Supervisors

Robert L. Crowell, Mayor

ATTEST:

ALAN GLOVER, Clerk-Recorder

This ordinance shall be in force and effect from and after the _____
day of the month of _____ of the year 2013.