

LAWS OF DELAWARE
VOLUME 83
CHAPTER 198
151st GENERAL ASSEMBLY
FORMERLY
HOUSE BILL NO. 241

AN ACT TO AMEND TITLES 4, 10 AND 16 OF THE DELAWARE CODE RELATING TO UNDERAGE POSSESSION OF MARIJUANA AND ALCOHOL.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 904, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follow:

§ 904. Offenses concerning certain persons.

(f) Whoever, being under the age of 21 years, has alcoholic liquor in his or her possession at any time, or consumes or is found to have consumed alcoholic liquor, shall be fined \$100 for the 1st offense and not less than \$200 nor more than \$500 for each subsequent offense. A first and second violation of this subsection is a civil offense. A peace officer having reasonable grounds to believe that a juvenile has committed an offense under this subsection may issue the juvenile a civil citation in lieu of a civil penalty. Information concerning this civil offense may not appear on an individual's certified criminal record. This section shall not apply to the possession or consumption of alcoholic liquor in connection with any religious service or by members of the same family within the private home of any of said members.

Section 2. Amend § 4764, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4764. Possession of marijuana; class B misdemeanor, unclassified misdemeanor, or civil violation.

(c) (1) Any person who knowingly or intentionally possesses a personal use quantity of a controlled substance or a counterfeit controlled substance classified in § 4714(d)(19) of this title, except as otherwise authorized by this chapter, must be assessed a civil penalty of \$100 in addition to such routine assessments necessary for the administration of civil violations and the marijuana must be forfeited.

(2) Private use or consumption by a person of a personal use quantity of a controlled substance or a counterfeit controlled substance classified in § 4714(d)(19) of this title is likewise punishable by a civil penalty under this subsection.

(3) Notwithstanding paragraph (c)(1) or (c)(2) of this section, any person under 21 years of age who commits a violation of this subsection must be assessed a civil penalty of \$100 for a first violation of this subsection and a civil penalty of not less than \$200 nor more than \$500 for a second violation of this subsection and is guilty of an unclassified misdemeanor and must be fined \$100 for a third or subsequent violation of this subsection. A peace officer having reasonable grounds to believe that a juvenile has committed a violation of paragraph (c)(1) or (c)(2) of this section may issue the juvenile a civil citation in lieu of a civil penalty.

~~(4) Unpaid fines double if not paid within 90 days of final adjudication of a violation of this subsection.~~

Section 3. Amend § 1004A, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1004A. Juvenile Offender Civil Citation Program.

(a) There is hereby established a juvenile offender civil citation option to provide a civil alternative to arrest and criminal prosecution for eligible youth who have committed minor misdemeanor acts of delinquency as set forth herein. The Juvenile Offender Civil Citation Program shall be coordinated by a statewide Civil Citation Coordinator within the Division of Youth Rehabilitative Services and shall include assessment and intervention services that a juvenile voluntarily agrees to complete in lieu of formal arrest and prosecution.

(b) (1) Referral to the Juvenile Offender Civil Citation Program shall be initiated by a peace officer through the issuance of a civil citation. Any peace officer having reasonable grounds to believe that a juvenile has committed or attempted to commit a misdemeanor act of delinquency may issue the juvenile a civil citation. The issuance of a civil citation shall be at the discretion of the peace officer and limited to qualified juvenile offenders. Participation in the Juvenile Offender Civil Citation Program is voluntary on the part of the juvenile offender and requires parental consent. Referral to the Juvenile Offender Civil Citation Program shall be made with the consent of the victim if one exists.

(2) An act of delinquency classified as a misdemeanor is eligible for disposition pursuant to a civil citation, except any Title 21 misdemeanor, unlawful sexual contact in violation of § 767 of Title 11, and unlawful imprisonment second

degree in violation of § 781 of Title 11. A juvenile is also eligible for disposition pursuant to a civil citation based on a referral under § 904 of Title 4 or § 4764 of Title 16.

(j) Notwithstanding anything in this section to the contrary, those juveniles referred to the Juvenile Civil Citation Program under § 904 of Title 4 or § 4764 of Title 16 may not be arrested for refusal to participate in the program or violating terms and conditions of the program.

Approved September 17, 2021