



SPONSOR: Rep. Smyk & Rep. Mitchell & Rep. Osienski &
Sen. Ennis & Sen. Lawson
Rep. Gray; Sen. Wilson

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 469

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO CONSUMING ALCOHOLIC
BEVERAGES OR MARIJUANA.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members
elected to each house thereof concurring therein):

1 Section 1. Amend § 4177, Title 21 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 4177. Driving a vehicle while under the influence or with a prohibited alcohol or drug content; evidence; arrests;
4 and penalties.

5 (c) For purposes of subchapter III of Chapter 27 of this title and this subchapter, the following definitions shall
6 apply:

7 (8) "Marijuana" means a controlled substance or a counterfeit controlled substance classified in § 4714(d)(19)
8 of Title 16.

9 Section 2. Amend § 4177J, Title 21 of the Delaware Code by making deletions as shown by strike through and
10 insertions as shown by underline as follows:

11 § 4177J. Drinking or consuming marijuana while driving prohibited.

12 (a) No person shall consume an alcoholic beverage or smoke or consume marijuana while driving a motor vehicle
13 upon the highways of this State. ~~"Consume," as used in this subsection, shall mean the ingestion of a substance containing~~
14 ~~alcohol while in the act of operating a motor vehicle in the presence of, or in the view of, a police officer.~~

15 (b) Whoever violates this section shall be fined for the first offense not less than \$25 nor more than \$200. For each
16 subsequent like offense occurring within 1 year of the previous offense, the person shall be fined not less than \$50 nor more
17 than \$400.

18 Section 3. Amend § 4177L, Title 21 of the Delaware Code by making deletions as shown by strike through and
19 insertions as shown by underline as follows:

20 § 4177L. Driving by persons under the age of 21 while consuming or after consumption of alcohol; alcohol or
21 marijuana; penalties.

22 (a) Whoever, being under the age of 21 years, drives, ~~operates-operates,~~ or has actual physical control of a vehicle,
23 an off-highway ~~vehiele-vehicle,~~ or a moped while consuming or after having consumed alcoholic liquor or while smoking
24 or consuming or after having smoked or consumed marijuana shall have that person's driver's license ~~and/or~~ or privileges
25 revoked for a period of 2 months for the first offense and not less than 6 months nor more than 12 months for each
26 subsequent offense. If the underage person does not have a driver's license ~~and/or~~ or privileges, the person shall be fined
27 \$200 for the first offense and not less than \$400 nor more than \$1,000 for each subsequent offense.

SYNOPSIS

While the consumption of marijuana while driving is an unclassified misdemeanor under § 4764(d) of Title 16 of the Delaware Code, this Act also makes the consumption of marijuana while driving a motor vehicle violation, like alcohol currently is. Thus, this Act enables law enforcement officers to charge a lesser offense and to use a traffic ticket rather than a criminal summons or warrant. This would enable an individual to avoid a conviction for a misdemeanor, as well as provide a better understanding to the general public that marijuana usage while operating a motor vehicle has the same dangers of impairment as drinking an alcoholic beverage.

Section 2 of this Act eliminates the definition of "consume" to remove the requirement that the officer observe the act in order for the act to be a crime since "consume" should be given its ordinary meaning for consistency with other provisions in the Delaware Code.

Section 3 of this Act provides for a license loss for the consumption of marijuana by those under the age of 21 who drive, operate, or have actual physical control of a motor vehicle. This places the consumption of marijuana in this context on par with the consumption of alcohol.

This Act requires a greater than majority vote for passage because § 28 of Article IV of the Delaware Constitution requires the affirmative vote of two-thirds of the members elected to each house of the General Assembly to create a new crime within the jurisdiction of the Court of Common Pleas, Family Court, or Justice of the Peace Court or to expand the scope of an existing crime within the jurisdiction of the Court of Common Pleas, Family Court, or Justice of the Peace Court.