

## POLICY 22. MARIJUANA CITATION PROGRAM

With the passage of California State Proposition 64, less than 28.5 grams of marijuana, or 8 grams of concentrated cannabis, or both and possession of up to six marijuana plants is legal for recreational usage so long as the possessor is 21 years of age or over. The law is broken into three sections; under the age of 18, over 18 but less than 21 and over 21.

### A. Notice to Appear Citation of offender under the age of 18

1. If the amount of cannabis possessed is not more than 28.5 grams of cannabis or not more than eight grams of concentrated cannabis, or both (net weight), a citation shall be issued for a violation of Health and Safety Code Section 11357(a)(1), an infraction.
2. If the amount of cannabis possessed is more than 28.5 grams of cannabis or more than eight grams of concentrated cannabis, or both (net weight), a citation shall be issued for a violation of Health and Safety Code Section 11357(b)(1), an infraction.
3. If the amount of cannabis possessed is not more than 28.5 grams of cannabis or not more than eight grams of concentrated cannabis, or both (net weight), and the offender is upon the grounds of a school providing instruction in grades K-12 and the school is in session or is a school related event, a citation shall be issued for a violation of Health and Safety Code Section 11357(d), an infraction.
4. If the offender plants, cultivates, harvests, dries or processes ANY marijuana plants, a citation shall be issued for a violation of Health and Safety Code Section 11358(a), an infraction.
5. If the offender is in possession for sale of ANY cannabis, a citation shall be issued for a violation of Health and Safety Code Section 11359(a), an infraction.
6. If the offender transports, imports into this state, sells, furnishes, administers or gives away or offers or attempts to do the same, ANY cannabis, a citation shall be issued for a violation of Health and Safety Code Section 11360(a)(1), an infraction.
7. If the offender smokes or ingests cannabis or cannabis products in any public place, except in accordance with Section 26200 of the Business and Professions Code, a citation shall be issued for violation of Health and Safety Code Section 11362.4(a), an infraction.
8. If the offender smokes cannabis or cannabis products in a location where smoking tobacco is prohibited; or within 1,000 feet of a school, day care

center, or youth center while children are present at such school, day care center, or youth center, except in or upon the grounds of a private residence or in accordance with Section 26200 of the Business and Professions Code or Chapter 3.5 of Division 8 of the Business and Professions Code and only if such smoking is not detectable by others on the grounds of such a school, day care center, or youth center while children are present; or possesses an open container or open package of cannabis or cannabis products while driving, operating, or riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation, a citation shall be issued for a violation of Health and Safety Code Section 11362.4(b), an infraction.

B. Notice to Appear Citation of offender at least 18 but less than 21

1. If the amount of cannabis possessed is not more than 28.5 grams of cannabis or not more than eight grams of concentrated cannabis, or both (net weight), a citation shall be issued for a violation of Health and Safety Code Section 11357(a)(2), an infraction.
2. If the amount of cannabis possessed is more than 28.5 grams of cannabis or more than eight grams of concentrated cannabis, or both (net weight), a citation shall be issued for a violation of Health and Safety Code Section 11357(b)(2), a misdemeanor.
3. If the amount of cannabis possessed is not more than 28.5 grams of cannabis or not more than eight grams of concentrated cannabis, or both (net weight), and the offender is upon the grounds of a school providing instruction in grades K-12 and the school is in session or is a school related event, a citation shall be issued for a first offense violation of Health and Safety Code Section 11357(c), a misdemeanor.
4. If the offender plants, cultivates, harvests, dries or processes not more than six living marijuana plants, a citation shall be issued for a violation of Health and Safety Code Section 11358(b), an infraction.
5. If the offender plants, cultivates, harvests, dries or processes more than six living marijuana plants, a citation may be issued for a violation of Health and Safety Code Section 11358(c), a misdemeanor. Note – if the offender has certain prior convictions as stated in section (d) of 11358 H&S, the offender may face more severe penalties.
6. If the offender is in possession for sale of ANY cannabis, a citation may be issued for a violation of Health and Safety Code Section 11359(b), a misdemeanor. Note – if the offender has certain prior convictions as stated in section (c) of 11359 H&S, the offender may face more severe penalties.
7. If the offender transports, imports into this state, sells, furnishes, administers or gives away or offers or attempts to do the same, ANY cannabis, a citation

shall be issued for a violation of Health and Safety Code Section 11360(a)(2), an misdemeanor. Note – if the offender has certain prior convictions as stated in section (a) (3) of 11360 H&S, the offender may face more severe penalties.

8. If the offender smokes or ingests cannabis or cannabis products in any public place, except in accordance with Section 26200 of the Business and Professions Code, a citation shall be issued for violation of Health and Safety Code Section 11362.4(a), an infraction.
9. If the offender smokes cannabis or cannabis products in a location where smoking tobacco is prohibited; or within 1,000 feet of a school, day care center, or youth center while children are present at such school, day care center, or youth center, except in or upon the grounds of a private residence or in accordance with Section 26200 of the Business and Professions Code or Chapter 3.5 of Division 8 of the Business and Professions Code and only if such smoking is not detectable by others on the grounds of such a school, day care center, or youth center while children are present; or Possesses an open container or open package of cannabis or cannabis products while driving, operating , or riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation, a citation shall be issued for a violation of Health and Safety Code Section 11362.4(b), an infraction.
10. Prior to issuing a citation for possession of cannabis, the deputy shall attempt to determine if the subject's possession was within the scope of Health and Safety Code Section 11362.5 (Use of Marijuana for Medical Purposes) and properly document their findings if applicable.

C. Notice to Appear Citation of offender is 21 or older

\*\*It should be noted that under Section C of this procedure any offense that is a misdemeanor and states "may" be issued a citation is an indication that the offender may be placed under custodial arrest if they fit the criteria under 853.6 PC.

1. If the amount of cannabis possessed is more than 28.5 grams of cannabis or more than 8 grams of concentrated cannabis, or both (net weight), a citation may be issued for a violation of Health and Safety Code Section 11357(b)(2), a misdemeanor.
2. If the amount of cannabis possessed is not more than 28.5 grams of cannabis or not more than 8 grams of concentrated cannabis, or both (net weight), and the offender is upon the grounds of a school providing instruction in grades K-12 and the school is in session or is a school related event, a citation shall be issued for a first offense violation of Health and Safety Code Section 11357(c), a misdemeanor.

3. If the offender plants, cultivates, harvests, dries or processes more than six living marijuana plants, a citation may be issued for a violation of Health and Safety Code Section 11358(c), a misdemeanor. Note – if the offender has certain prior convictions as stated in section (d) of 11358 H&S, the offender may face more severe penalties.
4. If the offender is in possession for sale of ANY cannabis, a citation may be issued for a violation of Health and Safety Code Section 11359(b), a misdemeanor. Note – if the offender has certain prior convictions as stated in section (c) of 11359 H&S, the offender may face more severe penalties.
5. If the offender transports, imports into this state, sells, furnishes, administers or gives away or offers or attempts to do the same, ANY cannabis, a citation may be issued for a violation of Health and Safety Code Section 11360(a)(2), an misdemeanor. Note – if the offender has certain prior convictions as stated in section (a) (3) of 11360 H&S, the offender may face more severe penalties.
6. If the offender smokes or ingests cannabis or cannabis products in any public place, except in accordance with Section 26200 of the Business and Professions Code, a citation shall be issued for violation of Health and Safety Code Section 11362.4(a), an infraction.
7. If the offender smokes cannabis or cannabis products in a location where smoking tobacco is prohibited; or within 1,000 feet of a school, day care center, or youth center while children are present at such school, day care center, or youth center, except in or upon the grounds of a private residence or in accordance with Section 26200 of the Business and Professions Code or Chapter 3.5 of Division 8 of the Business and Professions Code and only if such smoking is not detectable by others on the grounds of such a school, day care center, or youth center while children are present; or possesses an open container or open package of cannabis or cannabis products while driving, operating , or riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation, a citation shall be issued for a violation of Health and Safety Code Section 11362.4(b), an infraction.

#### D. Citations, reporting, and other considerations

1. For citations on infractions, the deputy will add a crime/incident report (not an arrest report) and obtain a case number in NetRMS listing the offender as a suspect, net weight and test the cannabis, and document the cannabis was placed into evidence in the property section of the crime/incident report. The deputy can also elect to write in the narrative of the crime/incident report to "refer to his/her notes on the citation."

The original citation and detailed notes on the back of the citation, or the NetRMS report concerning the offense shall be submitted to the District Attorney's Office for issuance of a complaint. The notes shall describe in detail all the facts concerning the offense and will be submitted with the original citation. The citation shall receive a case number and the Court's copy of the citation shall be forwarded to the District Attorney.

2. In cases where the subject has no identification, or refuses to identify themselves, Penal Code Section 853.5(a) is applicable.
3. In those cases where the subject has no identification, but provides a name, a reasonable effort to verify the identity of the subject shall be made.
4. If the subject's identification cannot be verified, or if the subject refuses to sign a notice to appear form, they shall be booked into jail per Penal Code Section 853.6(i). This section only applies to misdemeanors
5. Where simple possession of cannabis of more than one ounce occurs and neither the amount of cannabis nor the circumstances indicate the intent to sell, the deputy has the option to issue citations as in other misdemeanor arrest situations.
6. An adult can be cited and released from the station, whereas, a juvenile released to his or her parents/guardian, absent a citation requires a JCR.
7. When two or more persons are present where cannabis is found and the possession is illegal, the offense may be considered multiple possession and all persons may be charged. Before deciding to arrest or cite all persons present in a multiple possession situation, the deputy should be able to justify his/her conclusion that they were all equally in possession.
8. If the deputy cannot determine ownership of the cannabis and it is determined the cannabis is illegally possessed, the deputy should seize the cannabis as Found Narcotics, document the seizure in NetRMS, and forward the cannabis to the Crime Laboratory for destruction.
9. Possession of cannabis by juveniles is an infraction per ALL Health and Safety Code sections except violations of section 11379.6, a felony, which is generally associated with BHO type labs. They can either be cited into juvenile court or a Juvenile Contact Report shall be submitted. It is preferred to document the infraction by completing a Juvenile Contact Report however citing the juvenile into juvenile court is acceptable if the citation is accompanied by a written NetRMS report documenting the incident.
10. Per vehicle code 23222(a) No person shall have in his or her possession on his or her person, while driving a motor vehicle upon a highway or on lands, as described in subdivision (b) of Section 23220, any bottle, can, or other

receptacle, containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed.

11. Per vehicle code 23222(b)(1) except as authorized by law, every person who has in his or her possession on his or her person, while driving a motor vehicle upon a highway or on lands, as described in subdivision (b) of Section 23220, any receptacle containing any cannabis or cannabis products, as defined by Section 11018.1 of the Health and Safety Code, which has been opened or has a seal broken, or loose cannabis flower not in a container, is guilty of an infraction
12. The public smoking or ingesting of cannabis is illegal if it occurs in areas where it is lawful to smoke or ingest tobacco products except in accordance with 26200 of the Business and Professions Code. It is illegal within 1000 feet of a school, day care when children are present or areas regulated by Regulatory Ordinances or City Codes. Violations of this will fall under Health and Safety Code sections 11362.4 (a) (b) or (c) and all are infractions.
13. If a misdemeanor cannabis violation is observed in conjunction with a vehicular violation, separate citations shall be issued unless the subject is cited for 23222(a) (b) of the California Vehicle Code.
14. When illegally possessed cannabis is found on a subject who has been arrested on a felony or bookable misdemeanor, the arresting deputy will not cite the suspect for cannabis. The deputy will take the cannabis as evidence and describe the circumstances surrounding the discovery of the cannabis in the narrative of the arrest report. The deputy will also document the results of a presumptive test on the cannabis and its net and gross weights.
15. All cannabis evidence shall be impounded and logged in without exception and processed according to established procedures. All cannabis evidence taken shall be impounded at the deputy's station no later than the end of the deputy's shift. A presumptive test shall be conducted and the cannabis evidence shall be weighed prior to the end of the deputy's shift if the suspect is cited. For all cannabis cited infractions, the deputy shall obtain a case number and complete a NetRMS crime report. The cited individual shall be listed as the "suspect" and the appropriate charge should be listed under the offense tab. The cannabis shall be listed under the property tab and the status listed as "6- Seized (Drug, Forgery/Counterfeit or Gambling Crime)."