

CHAPTER 58

POSSESSION OF CONTROLLED SUBSTANCE AND DRUG PARAPHERNALIA

58.01 POSSESSION OR USE.

- (a) It is a violation for any person to possess tetrahydrocannabinol, listed at Wis. Stat. § 961.14(4)(t), or synthetic cannabinoids included under Wis. Stat. § 961.14(4)(tb) except as provided in Wis. Stat. § 961.41(3g)(intro.), unless directly obtained from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by law. Whoever violates this section may be penalized as provided in this chapter. Pursuant to Wis. Stat. § 961.32(3)(b) it is not a violation of this chapter to plant, grow, cultivate, harvest, sample, test, process, transport, transfer, take possession, sell, import, and export industrial hemp in accordance with the rules of the department of agriculture, trade and consumer protection under Wis. Stat. § 94.55(2)(b).
- (b) No person may use, or possess with the intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, ingest, inhale or otherwise, introduce, into the human body, a controlled substance or controlled substance analog in violation of Wis. Stat. § 961.573(1).

58.02 DEFINITIONS.

In this chapter the following definitions are included and incorporated by reference as follows:

- (a) “Drug Paraphernalia” has the same meaning as the definition found in section 961.571 of the Wisconsin Statutes.
- (b) “Industrial hemp” has the same meaning as the definition found in section 94.55(1) of the Wisconsin Statutes.
- (c) “Marijuana” (defined as tetrahydrocannabinols under section 961.14(4)(t) of the Wisconsin Statutes) has the same meaning as the definition found in section 961.01(14) of the Wisconsin Statutes.
- (d) “Synthetic cannabinoid” includes all controlled substances defined under section 961.14(4)(tb) of the Wisconsin Statutes, or an analog of those controlled substances.

58.03 DETERMINATION.

- (a) In determining whether an object is drug paraphernalia, a court or other authority shall consider the factors stated in Wis. Stat. § 961.572.
- (b) The weight of the substance includes the tetrahydrocannabinols and the weight of any marijuana that contained the tetrahydrocannabinols.

58.04 EXEMPTION.

- (a) It is not necessary for the County to negate any exemption or exception in this section in any complaint or other pleading or in any trial, hearing or other proceeding under this section. The burden of proof of any exemption or exception is upon the person claiming it.
- (b) This ordinance shall not apply to any person who:
 - (1) Is charged with possession of more than 25 grams of marijuana.
 - (2) Is charged with possession of any amount of marijuana following a conviction for possession of marijuana, in this state.
 - (3) Is charged with possession of any amount of synthetic cannabinoid following a conviction for possession of synthetic cannabinoid, in this state.

58.05 LIABILITY.

No liability is imposed by this section upon any authorized state, County or municipal officer or employee engaged in the lawful performance of his or her duties.

58.06 PENALTY.

Any person who violates any provision of this chapter shall, upon conviction, be subject to a forfeiture of not less than \$125, nor more than \$500.

58.07 AMENDMENTS.

Any future amendments, revisions, or modifications of Wisconsin Statute Chapters 94 and 961, or any other statutes referred to in this ordinance are intended to be made part of this ordinance as such amendments, revisions, or modifications are made to said statutes.

58.08 EFFECTIVE DATE.

This ordinance shall be effective the day after its publication.

Chapter 58 – Ordinance No. 608 (2002) – January, 2002, Amended March, 2002

Chapter 59 - Ordinance No. 47 (1981) – June, 1981.

Repealed and Recreated: Ordinance No. 872 (2018)- November, 2018