



Legislation Text

File #: Res 0986-2011, **Version:** A

Res. No. 986-A

Resolution supporting the Governor's proposal to amend the Penal Law to make possession of a small quantity of marihuana in public view a violation, applauding the Speaker of the Assembly for his support of the proposal, and calling upon the New York Senate to pass legislation enacting the same.

By Council Members Mark-Viverito, Koppell, Williams, Brewer, Dromm, Lander, Mendez, Vann, Jackson, Chin, Rose, Palma, James, Rodriguez, Comrie, Seabrook, Koslowitz, Barron, Sanders Jr., Levin, Gonzalez, Foster, Dickens, Arroyo, Wills, Ferreras, Lappin, Van Bramer, Garodnick and Gennaro

Whereas, New York State has historically taken an active role in passing sensible marihuana laws; for example, the New York State Legislature reformed the State's marihuana laws by passing the Marihuana Reform Act of 1977 ("The Act"); and

Whereas, The Act removed marihuana, other than "concentrated cannabis," from the controlled substances crimes covered by article 220 of the New York State Penal Law and created separate articles defining offenses relating to the sale and possession of marihuana; and

Whereas, Additionally, the Act created the offense of "criminal possession of marihuana in the fifth degree," a class B misdemeanor, which can be charged when an individual knowingly and unlawfully possesses either (i) an aggregate weight of more than 25 grams of marihuana, or (ii) any quantity of marihuana if the possession is in a public place and such marihuana is burning or open to public view; and

Whereas, The Act created that class B misdemeanor in order to reduce the penalty for possession and sale of marihuana; the Legislature also "decriminalized" the possession of a small amount of marihuana, defined as 25 grams or less, by creating the offense of "unlawful possession of marihuana," which is a violation, not a crime, and carries a fine of no more than one hundred dollars; and

Whereas, In creating the violation of unlawful possession of marihuana, the Legislature expressed its

intent by stating that “the purpose of this act is to insure that the many people in New York who commit the conduct which this act makes a violation not be subjected to unduly harsh sanctions”; and

Whereas, On September 19, 2011, Police Commissioner Ray Kelly issued an order to clarify that the department’s policy is to charge individuals with a violation, and not a misdemeanor, for small amounts of marihuana that come into view during a search; and

Whereas, According to the Wall Street Journal, although marihuana arrests have dropped 25% since the issuance of the police commissioner’s directive, many New Yorkers continue to be arrested for marihuana possession; and

Whereas, According to a report released by the New York State Division of Criminal Justice Services, in 2010, 50,383 individuals were arrested in New York City for a class B misdemeanor marihuana possession, which averages to approximately 138 arrests per day; and

Whereas, African-Americans and Latinos account for nearly 86% of those arrested for marihuana possession while Caucasians account for less than 11% of those arrested for marihuana possession; and

Whereas, The majority of individuals arrested for marihuana possession in New York City are younger than 30 years old; and

Whereas, A survey conducted by the U.S. Department of Health and Human Services shows that for 18 to 25 year olds, Caucasians use marihuana at higher rates than Blacks and Latinos; and

Whereas, Some of these arrests occur in the context of individuals being detained during a New York City Police Department (“NYPD”) stop-and-frisk encounter; and

Whereas, Most of the stops-and-frisks conducted by the police occur in predominantly African-American and Latino communities; and

Whereas, When a marihuana possession arrest occurs, there a heavy personal toll for those arrested and

their families including possible housing, employment, parental continuity, and educational consequences, which can have life-long ramifications; and

Whereas, There is also a fiscal impact associated with processing these arrests; in fact, New York City spends approximately between \$1,000 and \$2,000 for each arrest, amounting to approximately \$50 to \$100 million in 2010 for expenses relating to policing, adjudication and jail time; and

Whereas, In a time of limited resources, these taxpayer dollars could be better spent on much-needed human services and addressing more serious criminal activity in neighborhoods across New York City; and

Whereas, In order to further reform New York State's marihuana laws, on Monday, June 4, 2012, Governor Andrew Cuomo announced a proposal to amend the Penal Law in relation to possession of a small quantity of marihuana in public view; and

Whereas, Governor Cuomo's proposal would amend the definition of criminal possession of marihuana in the fifth degree and standardize penalties for possessing small amounts of marihuana by making it a violation to possess such marihuana not just in private, but in public view as well; and

Whereas, The proposal would retain all other current penalties for marihuana use; and

Whereas, Such current penalties include a penalty of a B misdemeanor for knowingly and unlawfully possessing an aggregate weight of more than 25 grams of marihuana or possessing marihuana while it is burning; and

Whereas, The supporters of Governor Cuomo's proposal include Assembly Speaker Sheldon Silver, New York City Mayor Michael Bloomberg, and NYPD Police Commissioner Ray Kelly; and

Whereas, The goal of Governor Cuomo's proposal is to amend the Penal Law in order to prevent those with small amounts of marihuana in public view from being arrested and obtaining a criminal record, which is particularly meaningful for African American and Latino New Yorkers who are often the subjects of police

searches that lead to such arrests; and

Whereas, The New York State Senate should act swiftly and pass legislation putting Governor Cuomo's proposal into effect in order to end the practice that the New York State Legislatures said in the past, "needlessly scars thousands of lives...while detracting from the prosecution of serious crimes"; now, therefore, be it

Resolved, That the Council of the City of New York supports Governor Andrew Cuomo's proposal to amend the Penal Law to make possession of a small quantity of marihuana in public view a violation, applauds the Speaker of the Assembly for his support of the proposal, and calls upon the New York Senate to pass legislation enacting the same.

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