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## It's still illegal - but questions abound

### New marijuana laws create confusion

BY MELISSA MCKEON MMCKEON@HOLDENLANDMARK.COM

REGION — For those who believe the days of sneaking around with a joint are over, reconsider. Massachusetts' move to make possession of less than an ounce of marijuana a civil rather than a criminal offense has created confusion on both sides of the citation form.

"I think there's a bit of a misconception on the public's part that it's legal now," Paxton Police Chief Robert Desrosiers says. "It's still contraband, and it can still lead you into trouble."

And law enforcement will still be confiscating it. The law Massachusetts voters - and Wachusett voters among them - passed with more than 60 percent approval changed marijuana possession laws to provide for only a \$100 civil penalty for possession of under an ounce of marijuana.

Those who indulge may still face penalties for driving under the influence of the weed; growing and distributing the substance remains just as serious an offense as before. All of those are still criminal offenses.

Whether it's more than an ounce is something law

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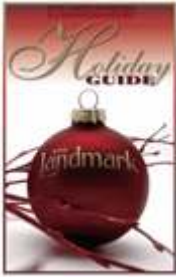
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vehicles. Princeton Police Chief Charles Schmonl says his officers will have to weigh the substance at the police station and then either issue the citation or file more serious criminal charges. To him, that situation is no different from the case of a motor vehicle accident, when investigations by accident reconstruction teams turn up evidence that merits serious charges or just a citation after the event.

The legal change also leaves cities and towns - and parents and lawmakers - considering other questions.

Making possession of less than an ounce a civil penalty means such charges won't show up on a criminal records check, the kind of check done on those who are in charge of children and public safety.

A habitual user who's received only civil penalties, therefore, could end up teaching school or driving an ambulance, police car or fire truck, with no one the wiser, Schmohl points out. That possibility could raise public outcry when an accident happens, he says, like that which arose when the chemical analysis of a firefighter who died in a Boston fire last year showed traces of marijuana.

It's created a problem for employers, too, Schmohl says.

"We can punish or terminate people for smoking tobacco products, but not marijuana," he says.

The legal change also leaves cities, towns and school districts wondering whether they need to now create new regulations to prevent public use of marijuana at public events, as there are, in some places, regulations against alcohol.

Those eventualities, most of the area's chiefs believe, weren't on the radar screen - either by the lawmakers who crafted the law in response to the referendum or by voters who cast a vote in favor of it.

"I don't think people were thinking it through," Holden Police Chief George Sherrill says.

As for the nitty-gritty of what happens administratively, or in court, there, too, confusion reigns.

State drug labs analyze substances from criminal

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State drug labs analyze substances from criminal cases, not civil ones. Schmohl says his department will be doing a quick analysis in-house just to cover themselves if push comes to shove.

The Wachusett-area towns have no citation forms specifically for this penalty; towns are using different forms or having new ones printed. A penalty in Holden will get you the regular traffic citation form, with "other" checked; in Princeton, folks will be getting a special form now being printed.

The \$100 fine must be paid to the town, which gets to keep the money, though it's not expected to turn out to be a revenue enhancer. Rutland Police Chief Joseph Baril says the number of cases they usually see per year that would fall into that category is very low. In Holden, where they see about 75 marijuana cases a year, it makes a greater impact.

The law as written, however, provides for drug education for youths who receive the penalty, Sherrill says. No such education is available.

"In my opinion, [the law] was poorly written," Sherrill said.

Area chiefs expect that changes to the law will have to come as cases evolve and are challenged. That will be a job for higher courts.

In the meantime, local law enforcement is wading through a mound of paperwork advising them how to administer the new civil penalties, some of it creating even more confusion.

"I've got more questions now than I did when I started," Baril says of the information.

Whatever the experts come up with to clarify things, they'll have to come up with it soon. Holden wrote its first citation on Jan. 4 and more will undoubtedly follow.

Though other communities face fewer such opportunities, circumstances will arise where a civil citation is warranted, and all agree with Baril.

"As of Jan. 2, that's the law," Baril said, "And we're going to enforce it as best we can."