



Jeffrey R. Gahler,  
Sheriff

# HARFORD COUNTY SHERIFF'S OFFICE OPERATIONS POLICY

## Cannabis Violations

<b>Distribution:</b>	<b>All Personnel</b>	<b>Policy Number:</b>	<b>OPS 1302</b>		
<b>Responsible Unit:</b>	<b>Police Services Bureau</b>	<b>Rescinds:</b>			
<b>Original Issued Date:</b>	<b>01/30/23</b>	<b>Revision #:</b>	<b>1</b>	<b>Latest Revision Date:</b>	<b>07/01/23</b>
<b>Latest Required Review was Completed:</b>		<b>07/14/23</b>	<b>Next Review Due:</b>	<b>07/14/26</b>	

### 1. Purpose

The Harford County Sheriff's Office (HCSO) will provide personnel with guidelines regarding the issuance of civil citations for qualifying cannabis violations.

### 2. Policy

Deputies of the HCSO will not make an arrest involving cannabis offenses unless the offense involves the exceptions noted in the Criminal Law Article § 5-612 (specific amounts), § 5-613 (drug kingpin) and § 5-614 (importation). In lieu of arrests for other offenses involving cannabis deputies may issue civil citations.

### 3. Definitions

**CANNABIS:** the plant Cannabis Sativa L., and any part of the plant, including all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9-tetrahydrocannabinol concentration greater than 0.3% on a dry weight basis.

**CANNABIS "CIVIL USE AMOUNT":**

- An amount of usable cannabis that exceeds 1.5 ounces, but does not exceed 2.5 ounces;
- An amount of concentrated cannabis that exceeds 12 grams but does not exceed 20 grams; or
- An amount of cannabis products containing delta-9-tetrahydrocannabinol concentration that exceeds 750 mg but does not exceed 1,250 mg.

**CANNABIS "PERSONAL USE AMOUNT":**

- An amount of usable cannabis that does not exceed 1.5 ounces;
- An amount of concentrated cannabis that does not exceed 12 grams; or
- An amount of cannabis products containing delta-9-tetrahydrocannabinol that does not exceed 750 mg.

### 4. References

MD Code, Criminal Law Article, § 5-101  
MD Code, Criminal Law Article, § 5-601  
MD Code, Criminal Law Article, § 5-601.1  
MD Code, Criminal Law Article, § 5-602  
MD Code, Criminal Law Article, § 5-603(b)  
MD Code, Courts Article, Title 3, Subtitle 8A  
**MD Code, Criminal Procedure, § 1-211**

## 5. Procedures

- A. Except as provided below, a person whose violation involves the use or possession of cannabis is guilty of a misdemeanor of possession of cannabis and is subject to imprisonment not exceeding 6 months or a fine not exceeding \$1,000 or both.
1. A finding of guilt involving the use or possession of the personal use amount of cannabis by a person under the age of 21 years is a civil offense punishable by a fine not exceeding \$100.00. CR § 5-601(a)(1)(ii).
  2. A finding of guilt involving the use or possession of the civil use amount of cannabis is a civil offense punishable by a fine not exceeding \$250.00. CR § 5-601(c)(2)(ii)(2).
  3. The smoking of cannabis in a public place is a civil offense punishable by a fine not exceeding \$50.00 (first offense) or a fine not exceeding \$150.00 (subsequent offense) CR § 5-601(c)(4).
- B. The provisions of 5.A. above may not be construed to affect the laws relating to:
1. Operating a vehicle or vessel while under the influence of or while impaired by a controlled dangerous substance; or
  2. Seizure and forfeiture.
- C. Distribution, Dispensing, or Manufacturing a Controlled Dangerous Substance (CDS)
1. A person may not distribute or dispense a CDS; or
  2. Possess a CDS other than cannabis in sufficient quantity reasonably to indicate under all circumstances an intent to distribute or dispense a CDS.
    - a. Except as otherwise provided, a person may not possess cannabis in sufficient quantity reasonably to indicate under all circumstances an intent to distribute or dispense cannabis.
    - b. Possession of the civil use amount of cannabis or the personal use amount of cannabis without other evidence of an intent to distribute or dispense does not constitute a violation of possession with intent to distribute.
    - c. A deputy must charge by citation for the possession with intent to distribute or distribution of cannabis CR § 5-602 or growing or manufacturing cannabis or a cannabis product under CR § 5-603(b).
- D. Issuance of Civil Citations
1. A deputy may issue a civil citation to a person in accordance with this policy.
  2. A civil citation issued to an individual under 21 years of age for a violation involving the use or possession of the civil use amount of cannabis or the personal use amount of cannabis will be signed by the deputy who issues the civil citation and will contain:
    - a. The name, address, and date of birth of the person charged;

- b. The date and time that the violation occurred;
  - c. The location at which the violation occurred;
  - d. The fine that may be imposed;
  - e. A notice stating that prepayment of the fine is allowed, except as provided in 5.3. below; and
  - f. A notice in boldface type that states that the person shall:
    - i. Pay the full amount of the preset fine; or
    - ii. Request a trial date at the date, time, and place established by the District Court by writ or trial notice.
3. If the citation is issued to a person under the age of 21 years, the court will summon the person for trial.
  4. If the citation is issued to a person under the age of 18 years the person shall be subject to the procedures and dispositions provided in Title 3, Subtitle 8A of the Courts Article.
  5. Pre-payable offenses are as follows:
    - a. Civil use of cannabis: \$125 prepaid fine;
    - b. Smoking cannabis in a public place: \$25 prepaid fine; or
    - c. Smoking cannabis in a public place subsequent offense: \$75 prepaid fine.
  6. Completing a Civil Citation
    - a. If a deputy chooses to use the District Court approved.pdf version of the civil citation, he will:
      - i. Use the tracking number from a preprinted/pre-numbered civil citation, type that number into the space provided in the pdf version of the citation, draw a diagonal line across the pre-printed/pre-numbered citation and staple it to the Court copy of the .pdf version;
      - ii. Separate civil citations will be issued for each violation;
      - iii. The Incident number will be written on all civil citations; and
      - iv. In instances when more than one citation is issued to a person, the citations will be related.
    - b. Should the person also be issued a criminal citation for a qualifying offense, the criminal citation will be related to the civil citation.

## E. Forms

### 1. The Uniform Civil Citation (DC-028)

- a. When charging a person for a civil offense, deputies will use a civil citation and will use either:

- i. The pre-printed/pre-numbered civil citation from the citation book provided by the District Court;
  - ii. The Court-approved .pdf version of the civil citation; or
- b. Uniform Juvenile Civil Citation (DC-031).
- i. If the person is under the age of 18, he or she will be charged on a juvenile citation.

F. Reports

1. Deputies will complete an Incident Report in the Law Enforcement Records Management System (RMS) detailing the circumstances of the incident and a Property Record (SO-258D) for the recovered cannabis.
2. Report Distribution
  - a. A copy of the civil citation will be given to the person upon release.
  - b. Copies of the civil citation will be forwarded to the Law Enforcement Records Unit (Records).
3. Determining Subsequent Offenders
  - a. Deputies will determine if the person has previously been issued a civil citation for smoking cannabis in a public place to establish if the person is to be charged with a first or subsequent offense.
  - b. To determine whether the person is a subsequent offender, the person's name will be queried through the District Court databases.
  - c. A deputy with access to the District Court J-Portal can query the individual using his Mobile Data Terminal (MDT).
  - d. A deputy without J-Portal access should contact a patrol supervisor to run the inquiry.
  - e. Should a previous violation be located, a copy of the record will be forwarded to records with the civil citation.
4. After determining whether the person has any previous violations, the deputy will complete the citation.

G. Searches

1. You may not stop or search a person, vehicle, or vessel based solely on the odor of cannabis.
2. A consent search based on the odor of cannabis is no longer permitted. However, if no odor or a deputy has other reasons to ask, you may get consent to search.
3. A deputy may ask for consent to search without considering the odor.

H. Release

1. Upon signing a civil citation the person will be released.
  - a. A person is not required to sign a civil citation and will not be arrested for failing to sign.
  - b. Should the person refuse to sign the citation, the deputy will write "Refused to Sign" in the signature line of the civil citation.
  - c. A person is not required to furnish proof of identification when receiving a civil citation.
  - d. Should a deputy have probable cause to believe that the person is providing a fictitious name, the deputy may, assuming the elements of the crime are met, charge the person with the criminal charge of obstructing and hindering and process the person as an on-view arrest.
  - e. Obstructing and hindering requires performance of a lawful duty, knowledge by the accused that the officer is performing a lawful duty, intent by the accused to hinder the officer in the performance of his or her duty, and an act or omission by the accused that hinders the officer in the performance of his or her lawful duty.
2. Seizing and Testing
  - a. If a qualifying arrest was made or a citation was issued, all cannabis, regardless of its weight, will continue to be seized and stored as a CDS.
  - b. Cannabis involving only a civil offense will not be sent to the lab for analysis.
  - c. Cannabis related to a criminal or serious traffic offense, regardless of the amount, may be sent to the lab for analysis.

**6. Summary of Changes**

- A. 07/01/23 the following changes were made to this policy:
1. Policy adjusted to conform to new law
  2. Updated language in Section 5.G Searches regarding probable cause searches

Approved  
  
JEFFREY R. GAHLER  
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DATE 7/14/23