



NEW YORK STATE SENATOR

Mark Grisanti

Grisanti seeks to reduce public marijuana penalty

MARK GRISANTI May 14, 2011

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ALBANY — Legislation proposed by a freshman senator from Buffalo would make smoking marijuana in public a violation instead of the more serious criminal misdemeanor charge.

“The law’s outdated,” State Sen. Mark Grisanti, a Republican, said of a 1977 law that decriminalized small amounts of marijuana possession but that critics say has been misinterpreted by some police agencies over the years.

Grisanti said his bill, which has a sponsor in the Assembly, would save time and money for police and prosecutors.

The 1977 law made possession of less than seven-eighths of an ounce of marijuana a violation instead of a criminal offense unless the drug was in “public view.”

A legislative memo accompanying the Grisanti bill states that police, especially in New York City, in recent years have arrested people on misdemeanor charges during stop-and-frisk procedures when small amounts of marijuana come into “public view” after someone is ordered to empty their pockets for an officer.

Grisanti, who represents an overwhelmingly Democratic district, said there has been a “racial disparity” in the arrests for misdemeanor instead of noncriminal violation charges. “This is to

clarify who should be charged with a misdemeanor,” the lawmaker said.

The Grisanti bill would mandate that police catching someone smoking marijuana in public and possessing less than 25 grams should charge the person with a noncriminal violation punishable by a fine. Multiple infractions, though, still could lead to criminal charges.

“It doesn’t limit police ability to intercede with people smoking marijuana in public—but aligns the penalties more in line with the objectives the Legislature envisioned in 1977,” said Gabriel Sayegh of the Drug Policy Alliance, which is promoting the new legislation.

Sayegh said the Grisanti bill would permit police to write a violation ticket to offenders and confiscate the marijuana. “Smoking marijuana will remain illegal. It’s just the penalties would change,” he said.

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