

# ALBUQUERQUE CRIMINAL LAWYER BLOG

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## Reclassification of Marijuana Possession: Is it Enough?

California voters will vote on a ballot measure that would legalize marijuana. In the meantime, Governor Arnold Schwarzenegger has signed a bill that reduces the penalties of the marijuana possession down to the level of a traffic violation. However, he remains opposed to the legalization and taxation of marijuana.

It might seem that reduction of the consequences of a marijuana conviction to a traffic ticket is sufficient to address the concerns of marijuana legalization activists. It does address a few. Reclassification of the offense will avoid criminalizing personal possession of a substance that an estimated 83 million Americans have tried. It avoids potentially criminalizing one half of the country's high school population that admits to trying marijuana before high school graduation. Perhaps most importantly, it will help to alleviate the hugely disproportionate impact marijuana criminalization has on minorities, particularly blacks and hispanics, who are far more likely to be arrested and prosecuted for the offense than similarly situated Anglos.

Despite the merits of reclassification, this solution does not go far enough. Marijuana continues to be classified as a controlled substance under State and Federal law. Reclassifying the seriousness of the offense will not change the controlled substance classification.

Why does it matter? Conviction, even without incarceration, of a controlled substance offense has many collateral consequences beyond the penal consequences. The most obvious is that conviction for a controlled substance offense, including marijuana, is a deportable offense. This means that many law abiding legal residents may be deported, not just those folks that according to Jan Brewer are littering our deserts with headless bodies.

Of course, there are those that are not opposed to the rather harsh measure of deportation of legal residents for minor possession of marijuana. There are other consequences as well. Perhaps most concerning is the impact a controlled substance conviction has on federal student loan eligibility. For those that were lucky enough to avoid student loans and unlikely to need them in the future, a controlled substance conviction can cause all kinds of future problems related to employment.

In short, reclassifying marijuana offenses to a less serious penal status does not address the inequities of marijuana

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criminalization. If the estimates are correct, there are 83 million Americans potentially at risk. Any law that would threaten to arrest and prosecute over a quarter of country's population for a controlled substance offense is simply unacceptable.

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