

# **Prosecutors have brought over 3,500 charges for marijuana possession in cars since legalization**

Unsealed cannabis packages must be stored in the trunk just like alcohol, a little-known rule that's led to more than 1,200 misdemeanor convictions in Minnesota

BY: **MAX NESTERAK** - DECEMBER 9, 2025 6:00 AM



📷 (Photo by Pablo Jeffs Munizaga/Getty Images)

When Minnesota lawmakers legalized recreational marijuana in 2023, Democrats hailed it as the state's most sweeping shift in drug policy in half a century and long-overdue relief for tens of thousands whose records were marred by low-level marijuana offenses.

What had been a felony – having two ounces of cannabis flower in a car, enough for about 100 joints – became legal overnight when the law took effect on Aug. 1.

But legalization hasn't ended marijuana prosecutions. Minnesota prosecutors have brought more than 3,500 charges and won more than 1,200 misdemeanor convictions against people with cannabis in their cars since legalization, according to a *Minnesota Reformer* analysis. Additionally, prosecutors have filed nearly 500 charges against people for consuming cannabis in vehicles, either as passengers or drivers.

That's due to an important but unadvertised caveat: all cannabis products – including

flower, vape pens, wax and edibles – must be in the trunk (or trunk area in the case of SUVs) unless they're sealed in their original, labeled packaging from a dispensary.

The police stops and prosecutions have defense lawyers concerned about the threat of racial profiling and warrantless vehicle searches.

“Now there's this whole entry point to all of these cars – officers are going to take it every time they get,” Amanda Brodhag, a Hennepin County public defender, said.

Law enforcement leaders and prosecutors say there's an obvious public safety rationale for the law: driving under the influence of cannabis or any intoxicating substance is dangerous and they shouldn't be easily accessible to the driver.

The packaging law has caught many consumers and even cannabis attorneys unawares.

“I'm surprised,” said Elliot Ginsburg, an attorney who helps marijuana growers, manufacturers and retailers comply with the new regulatory regime. “I suspect a lot of people don't know that.”

The law prohibiting improperly packaged marijuana in vehicles isn't mentioned on the state's “[need to know](#)” page about adult-use cannabis, nor is it referenced anywhere in [the chapter of laws](#) governing recreational cannabis, including [the lengthy section](#) detailing limits on cannabis possession and the many things people may not do with it, like use it in a vehicle.

The [rules](#) are found in the lengthy chapter of traffic laws, next to the nearly identical section on open alcohol containers.

Violating the cannabis open package law is a misdemeanor, carrying a maximum penalty of \$1,000 fine and 90 days in jail, although many people end up paying a few hundred dollars or less, according to the *Reformer's* review of convictions.

In dozens of convictions reviewed by the *Reformer*, some cases included evidence that the driver had recently consumed, like a burnt roach in the ashtray or a vape pen tucked under the driver's leg. In those cases, there were often additional charges such as driving under the influence, speeding or driving without a license.

In many other cases, however, the driver is not even suspected of being under the influence but simply had a jar of marijuana in the passenger area or in the center console. In those cases, drivers often freely showed officers their bag of weed, seemingly unaware they had done anything wrong.

Brodhag, the Hennepin County public defender, said the people she's represented charged

with marijuana packaging violations have been surprised to learn they did anything wrong.

She and other criminal defense attorneys have also seen officers use it to search vehicles without a warrant or the driver's consent, which they say is a troubling trend. They worry police may use the ban on improperly packaged cannabis as part of a strategy that targets people of color and people in low-income neighborhoods in hopes of turning up illegal guns, drugs or other contraband.

In 2023, [the Minnesota Supreme Court ruled](#) that the odor of marijuana alone did not give police officers enough probable cause to search a vehicle without a warrant or the owner's consent. But if drivers admit to having marijuana in the passenger area or a police officer sees it, that could justify a warrantless search.

There are apparent racial disparities in some counties, according to data obtained by the *Reformer* through a public records request. In the state's most populous Hennepin County, for instance, around 42% of people charged with having open cannabis packages or using in their vehicles were Black despite making up roughly 13% of the population. In Ramsey and Dakota counties, roughly a third of people charged since legalization were Black.

"We're just switching how we're criminalizing the same exact plant," Brodhag said. "And it's going to hit the same communities that the criminalization of marijuana did."

Brodhag serves on the state's [Cannabis Expungement Board](#), which was created by the Legislature to review more than 100,000 past marijuana-related cases. Sen. Lindsey Port, a Democrat from Minneapolis and lead author of the bill, has said the aim of the board is to "[undo that harm](#)" of cannabis prohibition. (Port did not respond to multiple requests for comment on this story.)

Brodhag finds it hard to reconcile her work on that board expunging low-level cannabis offenses with defending people who continue to be charged with the low-level cannabis offense of having an improperly sealed bag or vape pen in the car.

"These cases are not going to be up for expungement in the same way, and these people are going to have convictions that could still impact their future," Brodhag said.

How often people are charged for improperly stored marijuana varies widely across the state. For instance, there were more charges brought in McLeod County, population 36,771, since legalization than Ramsey County, population 552,352 – 128 to 120.

Since misdemeanor charges are usually brought by city attorneys, charging rates can differ greatly across city lines. Prosecutors in Edina, population 53,494, have brought 93 charges since legalization compared to 87 brought in Minneapolis, population 429,954.

Ginsburg, the cannabis business attorney, says it doesn't make sense to treat a resealed jar of marijuana in the glove compartment the same as an open beer can in the driver's cupholder.

"If you have a can of beer open, it's in the process of being consumed. But a broken seal on a package means you maybe used some two weeks ago," Ginsburg said. "I don't see why that should be a crime."

A resealed jar of marijuana seems akin to a case of beer with a few cans missing, which is not a crime to have in the passenger area of a car in Minnesota. (At least, prosecutors and members of the Minnesota Supreme Court agreed it was not a crime in [2021 case](#).) Law enforcement leaders counter it's also like having a half-full handle of vodka or bottle of wine, which is a crime.

Another important distinction is that virtually all beer, wine and other spirits that people have in their cars came sealed from a store, whereas the vast majority of cannabis, at least for now, is either purchased on the black market or grown at home. Until recently there were only a handful of dispensaries in Minnesota where people could buy cannabis in the required "[child-resistant, tamper-evident and opaque](#)" packages.

Ginsburg also pointed out that consumers could face misdemeanor charges if manufacturers don't package their product according to strict state standards and they happen to have it in the passenger area of their cars.

"The vast, vast, vast majority are doing their best to comply... but during this awkward transition period, there is confusion in the market," Ginsburg said.

McLeod County Attorney Ryan Hansch, whose office has brought 72 charges since legalization, said open cannabis package violations are hardly a priority for his office compared with more serious crimes. But when law enforcement brings him a case, his job is fairly straightforward.

"If the evidence supports criminal charges – absent some other considerations – it is typically going to be charged," Hansch said.

Law enforcement officers have broad discretion over whether to refer charges, and Hansch said he's confident officers are choosing to educate people about the law and let them go with a warning in a fair number of cases.

Edina Police Sgt. Mike Sussman said he isn't surprised by his city's relatively high charging rate and doesn't think it's a particularly enlightening statistic.

Edina has major highways crossing through their jurisdiction connecting Minneapolis to outer-ring suburbs. Plus, the Minneapolis Police Department is short hundreds of officers

and likely busier answering 911 calls. (Minneapolis police are also barred from pulling people over for equipment violations like broken taillights and tinted windows following [federal](#) and [state](#) investigations that found they had a pattern of racial discrimination.)

“We are heavily traffic-focused,” Sussman said.

He said they’re not interested in “nitpicking” small amounts of cannabis, but they try to follow the letter of the law.

“The citation is what changes the driving behavior,” Sussman said. “And consistency is usually the key when it comes to some of these enforcements because otherwise you could be accused of favoritism.”