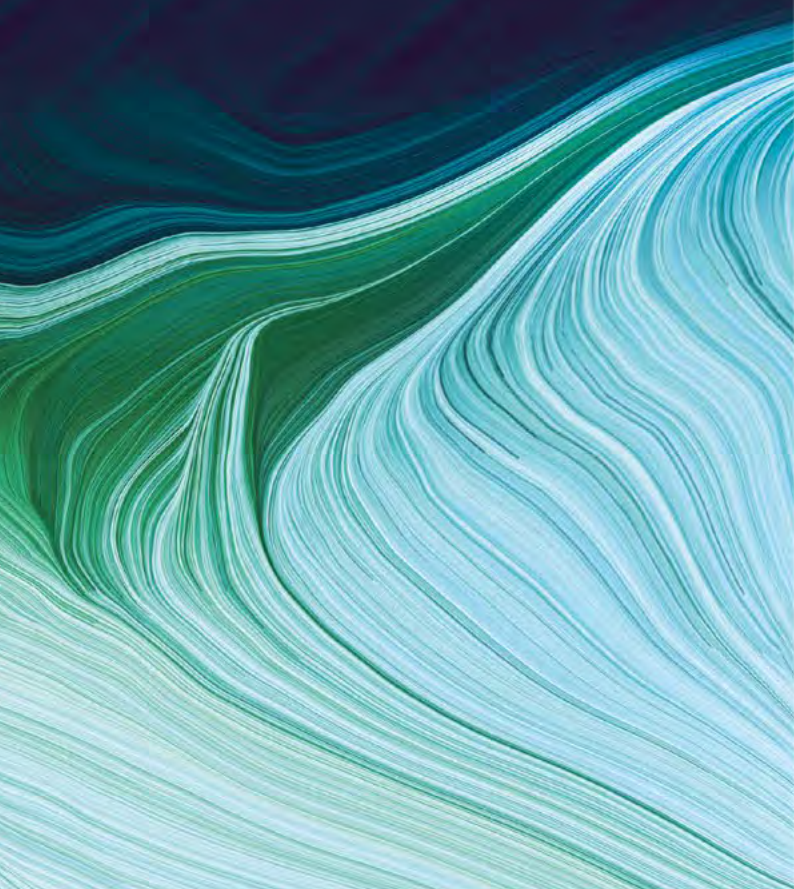


Shit happens

Hemp, smoking pot, THC and the
laws on cannabis prosecution

Edition 15

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hanflegal.ch

Verein Legalize it!

The levels of legality and illegality of THC

Abbreviations

THC Tetrahydrocannabinol, the main active ingredient in hash and weed, is crucial to the laws. Hemp is considered a prohibited narcotic if its THC content is 1% or more.

NarcA Narcotics Act

OBG / OBV Fixed Penalties Act / Fixed Penalties Ordinance

VRV Traffic Regulations Ordinance

VSKV-ASTRA Ordinance of the FEDRO to the Road Traffic Control Ordinance

Strongly illegal

Basically, any use of cannabis is strongly illegal



Misdemeanor • NarCA 19

The handling of cannabis is strictly prohibited. Whether possession, cultivation, import, buying or dealing: all these interactions are misdemeanors (higher level of illegality). Whoever is convicted of any of them will be registered in the criminal register. The penalty includes a fine, a monetary penalty in daily rates, the procedural costs and possibly also the re-payment of any proceeds of crime. In the case of repeat offenses, the penalties drastically increase – up to imprisonment.

More on the topic misdemeanor

► hanflegal.ch/stronglyillegal

Trace amount of THC in blood decide



Misdemeanor • VRV 2, VSKV-ASTRA 34

If a driver is tested with at least 1.5 µg THC per liter of blood, the driver is proven guilty of «driving on drugs» and thus a misdemeanor is proven. So there will be an entry in the criminal record. Even if no concrete abnormalities are found during the medical examination.

Overview of the topic THC and driving

► hanflegal.ch/driving

Normal illegal

Even the consumption is forbidden



Contravention · NarcA 19a

Consumption is a contravention (lower level of illegality). This also includes all preparing acts (i.e. purchase, possession, cultivation, import). The quantity does not matter. However, it must only be for the preparation of one's own consumption. Passing on, also giving away, is always a misdemeanor. Whoever is found with hash or weed should therefore clearly state that this is intended for own consumption. Only then NarcA Article 19a can take effect, otherwise you are stuck on Article 19.

A punishment for this usually consists of a few hundred CHF fine and a few hundred CHF fees, total CHF 250 to 1,000. In case of repeat offenses it becomes more expensive!

All about the topic contraventions

▶ hanflegal.ch/en-normalillegal

Little illegal

Consumption detected by the police



Contravention · OBG and OBV

If the police catch consuming adults in the act, they can directly penalize this consumption with a fixed penalty of CHF 100. The police will not question or commence further investigation.

Even in the case of a repeat offence, the fine remains a fixed penalty. However, a maximum of 10 grams may be carried during the control (see quasi legal), otherwise there is a normal crime investigation procedure, with questioning and a higher fine.

Juveniles cannot be issued such a fixed penalty by the police, but must be reported in the normal way. The punishment is then carried out by the youth prosecutor's office.

More about the fixed penalties

▶ hanflegal.ch/littleillegal

Sort of legal

Small amount



Impunity · NarcA 19b

Anyone who possesses up to 10 grams of hash or weed for their own consumption, but has not yet consumed any of it (at least not on the record or does not confess to any previous consumption), cannot be punished. Therefore, no criminal proceedings should commence at all.

Until now, the material has always been confiscated, even if this was controversial. A new Federal Court decision (June 2023) has now clarified that such a minor amount may not be confiscated.

But whosoever possesses a few grams for passing it on is committing a misdemeanor! So, this exception is only valid for preparatory acts for one's own consumption (purchase, possession).

Further information on the minor quantity

▶ hanflegal.ch/sortoflegal

Partly legal



Study cannabis

As part of the pilot projects researching new ways of dealing with cannabis, hash and weed are legal. But the framework is tight: the study cannabis may not be consumed in public and the study participants are not allowed to pass it on.

► hanflegal.ch/pilotprojects



Cannabis on prescription

THC-containing medications can now be prescribed without an exemption. However, doctors are still reluctant to prescribe, and health insurances rarely cover the costs. Only in the next couple of years will we see if there really will be a breakthrough here and if flowers will actually be cheaper than the tinctures that are used to date.

► hanflegal.ch/medicine



Food and «CBD hemp»

Hemp below 1 % THC is not covered by the NarCA, so it is generally permitted. However, there are still several laws to consider (on food, chemicals, cosmetics or even packaging regulations for smokable products; depending on the type of product).

► hanflegal.ch/food

► hanflegal.ch/cbdhemp

Introduction



Attention: very harsh laws!

Hemp with 1 % THC or more is still prohibited. Consumption and trade: Everything is punished. There are also strict regulations regarding road traffic. Legalization is far away, despite all discussions. The total ban still applies.

In this leaflet we present the basics: Criminal proceedings, administrative measures as well as the levels of legality and illegality of cannabis in Switzerland. You can find more detailed information on our website or in a personal consultation.

The links

- ▶ hanflegal.ch/en-introduction
- ▶ hanflegal.ch/legalaid



Criminal proceedings



Police investigate

The police catch people using or dealing with THC and check drivers who they find suspicious. They conduct interrogations, write protocols, seize hash/weed and conduct house searches. Their investigations/protocols are the basis for conviction by the public prosecutor. Only in the case of directly witnessed consumption can the police issue a fixed penalty themselves. The police also forward their findings to other authorities such as the road traffic office.

Tips for the police interview

- ▶ hanflegal.ch/interrogation
- ▶ hanflegal.ch/report



Public prosecutor punishes

The public prosecutor (or in some areas the authorities responsible for prosecuting contraventions for minor cases) issues a summary penalty order on the basis of the police records. If persons convicted do not appeal within 10 days, the summary penalty order becomes a definitive sentence. Otherwise, it goes to the courts. The vast majority of cases are resolved with a summary penalty order. After receiving a summary penalty order, the person concerned should inspect the files and copy everything.

Examples of summary penalty orders and documents

- ▶ hanflegal.ch/penalties



Administrative measures



Road Traffic Office

Anyone who is convicted of consuming more than twice a week will have trouble with the road traffic office, if he or she has a driving license. This is the case, because even at such a low level of consumption, the authorities assume a drug addiction. A drug addiction, however, is incompatible with holding a driving license. Therefore, the road traffic office either immediately withdraws the driving license for an indefinite period of time or it requests that a driving ability test is to be passed within a few months. Otherwise, the driving license is also withdrawn.



Driving ability test

Those who want to get their driving license back or keep it, must pass a driving ability test and prove complete abstinence (by negative urine tests during several months before and during 6 to 24 months after the test). In addition, those affected must be able to explain why they can now do without this illegal drug, what they are doing instead, and that they will now comply with the applicable legal system. (By the way, a similar procedure occurs when someone registers for a firearms license).

Overview on THC and driving

▶ hanflegal.ch/driving

Tips



Prepare yourself!

So, if you like to consume THC, you should inform yourself about the legal basics. Even if it goes well for years and nothing happens, it is better to be prepared for that special moment! We see this every week in our legal counseling: Shit happens... Having a plan is better than suddenly being surprised and then making more incriminating statements than absolutely necessary.



Camouflage and caution can help!

Vaporize instead of smoking; do not consume in public; carry less than 10 grams; do not order hemp seeds; refrain from driving for a few days after consumption; do not leave electronic traces around hemp – all this can greatly help to stay under the radar and avoid the «Shit happens» moment.

More tips for your safety

▶ hanflegal.ch/tips

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Legal assistance and information

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