

2/23/95-judiciary
FILED FEB 23 1995

SENATE FILE 199
BY GIANNETTO

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing for enhanced penalties for unlawful possession
2 of controlled substances offenses and providing a conditional
3 effective date.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 199

1 Section 1. Section 124.401, subsection 3, Code 1995, is
2 amended to read as follows:

3 3. a. It is unlawful for any person knowingly or
4 intentionally to possess a controlled substance unless such
5 substance was obtained directly from, or pursuant to, a valid
6 prescription or order of a practitioner while acting in the
7 course of the practitioner's professional practice, or except
8 as otherwise authorized by this chapter. Any person who
9 violates this subsection is guilty of a-serious an aggravated
10 misdemeanor for the first offense, and a class "D" felony for
11 the second and each subsequent offense if the second or
12 subsequent offense occurs within six years of the previous
13 offense. ~~If the controlled substance is marijuana, the~~
14 ~~punishment shall be by imprisonment in the county jail for not~~
15 ~~more than six months or by a fine of not more than one~~
16 ~~thousand dollars, or by both such fine and imprisonment. All~~
17 ~~or any part of a sentence imposed pursuant to this section may~~
18 ~~be suspended and the person placed upon probation upon such~~
19 ~~terms and conditions as the court may impose including the~~
20 ~~active participation by such person in a drug treatment,~~
21 ~~rehabilitation or education program approved by the court.~~
22 b. Any person who possesses marijuana is guilty of a
23 serious misdemeanor for the first offense, and is guilty of an
24 aggravated misdemeanor for the second and each subsequent
25 offense if the second or subsequent offense occurs within six
26 years of the previous offense.

27 c. A person eighteen or older is guilty of an aggravated
28 misdemeanor if the person knowingly or intentionally possesses
29 any controlled substance in violation of this section in the
30 presence of a minor.

31 Sec. 2. EFFECTIVE DATE. This Act shall not take effect
32 unless an appropriation is enacted or the state's share of the
33 cost is specified in accordance with section 25B.2, subsection
34 3.

35 EXPLANATION

1 This bill provides that a person who unlawfully possesses a
2 controlled substance other than marijuana commits an
3 aggravated misdemeanor for the first offense and a class "D"
4 felony for each subsequent offense if the subsequent offense
5 is committed within six years of the previous offense. The
6 bill eliminates the six-month jail term and \$1,000 fine for
7 possession of marijuana and makes possession of marijuana a
8 serious misdemeanor for the first offense and an aggravated
9 misdemeanor for each subsequent offense if the subsequent
10 offense is committed within six years of the previous offense.
11 The bill also makes it an aggravated misdemeanor for an adult
12 to unlawfully possess a controlled substance in the presence
13 of a minor.

14 The bill may contain a state mandate under chapter 25B and
15 will not take effect unless an appropriation fully funding the
16 cost to political subdivisions of complying with the bill or
17 specifying the state's share of the cost of complying with the
18 bill is enacted.

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