

Sukup, Chair
Larson
Chapman

HSB 184

JUDICIARY
E 800
SF/HF

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON LARSON)

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

A BILL FOR

1 An Act to change the penalties for the criminal offense of
2 accommodation involving marijuana.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 ~~Section 741.18~~ Section 124.410, Code 1999, is amended to read
2 as follows:

3 124.410 ACCOMMODATION OFFENSE.

4 In a prosecution for unlawful delivery or possession with
5 intent to deliver marijuana, if the prosecution proves that
6 the defendant violated the provisions of section 124.401,
7 subsection 1, by proving that the defendant delivered or
8 possessed with intent to deliver one one-half ounce or less of
9 marijuana which was not offered for sale, the defendant is
10 guilty of an accommodation offense and rather than being
11 sentenced as if convicted for a violation of section 124.401,
12 subsection 1, paragraph "d", shall be sentenced as if
13 convicted of a violation of section 124.401, subsection 5. An
14 accommodation offense may be proved as an included offense
15 under a charge of delivering or possessing with the intent to
16 deliver marijuana in violation of section 124.401, subsection
17 1. This section does not apply to hashish, hashish oil, or
18 other derivatives of marijuana as defined in section 124.101,
19 subsection 17.

20 EXPLANATION

21 This bill amends Code section 124.410 pertaining to the
22 delivery or possession with the intent to deliver marijuana.

23 The bill establishes that a person who delivers or
24 possesses with the intent to deliver one-half ounce or less of
25 marijuana but does not offer the marijuana for sale, is guilty
26 of a serious misdemeanor for the first and second offenses. A
27 conviction for a first offense is punishable by confinement
28 for no more than six months in jail and a fine of not more
29 than \$1,000. A conviction for a second offense is punishable
30 by confinement for no more than one year and a fine of at
31 least \$250 but not more than \$1,500. A third or subsequent
32 offense is classified as an aggravated misdemeanor, punishable
33 by confinement for no more than two years and a fine of at
34 least \$500 but not more than \$5,000.

35 Existing law provides that a person who delivers or

1 possesses with the intent to deliver an ounce or less of
2 marijuana, whether or not offered for sale, is guilty of a
3 serious or aggravated misdemeanor depending on the number of
4 prior offenses the person has committed.

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S - 3/25/99 *Judice inf*
S - 3/31/99 *Do Pass*

MAR 17 1999

Place On Calendar

HOUSE FILE 705
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 184)

Passed House, Date ^(P.869) 3-25-99 Passed Senate, Date ^(P.1160) 4/15/99
Vote: Ayes 90 Nays 5 Vote: Ayes 34 Nays 11
Approved April 26, 1999

A BILL FOR

1 An Act to change the penalties for the criminal offense of
2 accommodation involving marijuana.

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

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HF 705

1 Section 1. Section 124.410, Code 1999, is amended to read
2 as follows:

3 124.410 ACCOMMODATION OFFENSE.

4 In a prosecution for unlawful delivery or possession with
5 intent to deliver marijuana, if the prosecution proves that
6 the defendant violated the provisions of section 124.401,
7 subsection 1, by proving that the defendant delivered or
8 possessed with intent to deliver one one-half ounce or less of
9 marijuana which was not offered for sale, the defendant is
10 guilty of an accommodation offense and rather than being
11 sentenced as if convicted for a violation of section 124.401,
12 subsection 1, paragraph "d", shall be sentenced as if
13 convicted of a violation of section 124.401, subsection 5. An
14 accommodation offense may be proved as an included offense
15 under a charge of delivering or possessing with the intent to
16 deliver marijuana in violation of section 124.401, subsection
17 1. This section does not apply to hashish, hashish oil, or
18 other derivatives of marijuana as defined in section 124.101,
19 subsection 17.

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22 delivery or possession with the intent to deliver marijuana.

23 The bill establishes that a person who delivers or
24 possesses with the intent to deliver one-half ounce or less of
25 marijuana but does not offer the marijuana for sale, is guilty
26 of a serious misdemeanor for the first and second offenses. A
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31 least \$250 but not more than \$1,500. A third or subsequent
32 offense is classified as an aggravated misdemeanor, punishable
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**HOUSE FILE 705
FISCAL NOTE**

The estimate for House File 705 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 705 amends the requirements for an "accommodation offense," which deals with the possession of marijuana with intent to deliver. The Bill reduces the maximum amount of marijuana to qualify as an accommodation offense from one ounce to one-half ounce and adds the requirement that the marijuana was not offered for sale. Under current law, the first two offenses of possession with intent to deliver marijuana of one ounce or less is a serious misdemeanor; a third offense or subsequent offense is an aggravated misdemeanor. The changes in this Bill make possession with intent to deliver one-half ounce to one ounce of marijuana a Class D felony.

ASSUMPTIONS

1. Current drug use, arrests, conviction rates, and sentencing policies will continue throughout the projection period.
2. There will be a six-month lag for the first offenders to be processed into the criminal justice system.
3. There is no data available for current convictions and the amount of marijuana in the offenders' possession. It is assumed for this analysis that reducing the maximum possession limit by one half will affect half of the offenders that are convicted under this law.
4. The costs of prosecuting a Class D felony is approximately \$325 more than the costs for aggravated and serious misdemeanors. Prosecution and defense costs are assumed to be the same.
5. The cost for the Courts to process a typical Class D felony is approximately \$1,600 more than to process an aggravated or serious misdemeanor.
6. The marginal cost for adding one more offender to a residential facility is \$14 per day. An offender spends four months in a residential facility.
7. The marginal cost for adding one inmate to prison is \$12 per day.
8. Data is not available to estimate these offenders current jail stays.

CORRECTIONAL IMPACT

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In FY 2000, there will be 16 convictions which are Class D felonies that otherwise would have been serious or aggravated misdemeanors. There will be 32 Class D convictions instead of misdemeanor convictions per year in subsequent years.

The Community-base Corrections residential facilities and prisons daily populations will increase as follows.

	<u>FY 2000</u>	<u>FY 2001</u>	<u>FY 2004</u>
Residential Facilities	Less than 1	1	1
Prison	6	15	15

The county jails will have one fewer admission in FY 2000 and three fewer admissions in subsequent years.

FISCAL IMPACT

The fiscal impact of House File 705 is as follows:

GENERAL FUND

	<u>FY 2000</u>	<u>FY 2001</u>	<u>FY 2004</u>
Public Defender	\$ 5,000	\$ 10,000	\$ 10,000
Courts	25,000	51,000	51,000
Residential Facilities (CBC)	2,000	5,000	5,000
Prisons	26,000	66,000	66,000
	<u>\$ 58,000</u>	<u>\$ 132,000</u>	<u>\$ 132,000</u>

COUNTIES

	<u>FY 2000</u>	<u>FY 2001</u>	<u>FY 2004</u>
County Attorneys	\$ 5,000	\$ 10,000	\$ 10,000

The cost savings for the county jails will be minimal.

SOURCES

Criminal and Juvenile Justice Planning Division, Department of Human Rights
Office of the Public Defender

(LSB 2483hv, MDF)

FILED MARCH 23, 1999

BY DENNIS PROUTY, FISCAL DIRECTOR

AN ACT
TO CHANGE THE PENALTIES FOR THE CRIMINAL OFFENSE OF ACCOMMODATION
INVOLVING MARIJUANA.

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

Section 1. Section 124.410, Code 1999, is amended to read
as follows:

124.410 ACCOMMODATION OFFENSE.

In a prosecution for unlawful delivery or possession with
intent to deliver marijuana, if the prosecution proves that
the defendant violated the provisions of section 124.401,
subsection 1, by proving that the defendant delivered or
possessed with intent to deliver one one-half ounce or less of
marijuana which was not offered for sale, the defendant is
guilty of an accommodation offense and rather than being
sentenced as if convicted for a violation of section 124.401,
subsection 1, paragraph "d", shall be sentenced as if
convicted of a violation of section 124.401, subsection 5. An
accommodation offense may be proved as an included offense
under a charge of delivering or possessing with the intent to
deliver marijuana in violation of section 124.401, subsection
1. This section does not apply to hashish, hashish oil, or

other derivatives of marijuana as defined in section 124.101,
subsection 17.

RON J. CORBETT
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and
is known as House File 705, Seventy-eighth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved *April 26*, 1999

THOMAS J. VILSACK
Governor