

# House Study Bill 558

## Bill Text

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1 1 Section 1. Section [124.401](#), subsection 5, unnumbered  
1 2 paragraph 1, Code Supplement 1999, is amended to read as  
1 3 follows:  
1 4 It is unlawful for any person knowingly or intentionally to  
1 5 possess a controlled substance unless such substance was  
1 6 obtained directly from, or pursuant to, a valid prescription  
1 7 or order of a practitioner while acting in the course of the  
1 8 practitioner's professional practice, or except as otherwise  
1 9 authorized by this chapter. Any person who violates this  
1 10 subsection is guilty of a serious misdemeanor for a first  
1 11 offense. A person who commits a violation of this subsection  
1 12 and who has previously been convicted of violating this  
1 13

~~subsection~~

~~chapter or chapter [124A](#), [124B](#), or [453B](#) is guilty of~~  
1 14 an aggravated misdemeanor. A person who commits a violation  
1 15 of this subsection and has previously been convicted two or  
1 16 more times of violating this

~~subsection~~

~~chapter or chapter~~  
1 17 [124A](#), [124B](#), or [453B](#) is guilty of a class "D" felony.

1 18

### EXPLANATION

1 19 This bill amends Code section [124.401](#), subsection 5, which  
1 20 relates to the unlawful possession of a controlled substance.

1 21 The bill provides that a person who has a prior conviction  
1 22 for any drug-related offense under Code chapter [124](#), [124A](#),  
1 23 [124B](#), or [453B](#), who then commits the offense of possession of a  
1 24 controlled substance under Code section [124.401](#), subsection 5,  
1 25 is guilty of an aggravated misdemeanor. The bill further  
1 26 provides that a person who has been convicted of two or more  
1 27 drug-related offenses who then commits the offense of  
1 28 possession of a controlled substance, is guilty of a class "D"  
1 29 felony. Under existing law, a person who has a prior  
1 30 conviction of possession of a controlled substance under Code  
1 31 section [124.401](#), subsection 5, who then commits another  
1 32 possession offense, is guilty of an aggravated misdemeanor,  
1 33 and a person who has two or more prior convictions of  
1 34 possession, who then commits another possession offense, is  
1 35 guilty of a class "D" felony.

2 1 An aggravated misdemeanor is punishable by confinement for  
2 2 no more than two years and a fine of at least \$500 but not  
2 3 more than \$5,000. A class "D" felony is punishable by  
2 4 confinement for no more than five years and a fine of at least  
2 5 \$750 but not more than \$7,500.

2 6 LSB 5136HC 78

2 7 jm/cf/24