

House File 453 - Introduced

HOUSE FILE 453

BY HUNTER

A BILL FOR

1 An Act relating to the possession, manufacture, or delivery
2 of marijuana and the possession of drug paraphernalia, and
3 providing penalties.

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

1 Section 1. Section 124.401, subsection 1, paragraph d, Code
2 2015, is amended to read as follows:

3 d. Violation of this subsection, with respect to any other
4 controlled substances, counterfeit substances, or simulated
5 controlled substances classified in section 124.204, subsection
6 4, paragraph "ai", or section 124.204, subsection 6, paragraph
7 "i", or classified in schedule IV or V is an aggravated
8 misdemeanor. However, violation of this subsection involving
9 ~~fifty kilograms or less~~ at least forty-two and one-half grams
10 but not more than fifty kilograms of marijuana or involving
11 flunitrazepam is a class "D" felony. A violation of this
12 subsection involving less than forty-two and one-half grams
13 of marijuana shall be prosecuted and punished as provided in
14 section 124.401G if the marijuana was not offered for sale,
15 otherwise the violation is a class "D" felony.

16 Sec. 2. NEW SECTION. 124.401G Small amount of marijuana —
17 drug paraphernalia — reasonable suspicion — civil penalty.

18 1. A person who commits a violation of section 124.401,
19 subsection 1, involving less than forty-two and one-half grams
20 of marijuana that was not offered for sale shall be assessed a
21 civil penalty in the amount of twenty-five dollars.

22 2. A person who commits a violation of section 124.414,
23 if the drug paraphernalia was not offered for sale shall be
24 assessed a civil penalty in the amount of twenty-five dollars.

25 3. This section shall not be construed to allow any of the
26 following:

27 a. The sale of marijuana or drug paraphernalia.

28 b. The use of marijuana or the display of drug paraphernalia
29 in a public place.

30 c. The possession, manufacture, or delivery of marijuana or
31 drug paraphernalia in the workplace.

32 d. An employer's regulation of marijuana use by an employee.

33 e. Operating a motor vehicle, motorboat, or sailboat while
34 under the influence of marijuana.

35 f. Prohibiting any person, business, organization, or

1 other entity, or a governmental agency that occupies, owns,
2 or controls any real property, from prohibiting or regulating
3 the possession, manufacture, or delivery of marijuana on such
4 property.

5 4. A peace officer shall confiscate all visible marijuana
6 or drug paraphernalia associated with a violation punishable
7 pursuant to this section.

8 5. The existence of any of the following circumstances
9 shall not constitute reasonable suspicion of a crime either
10 individually or in combination with each other, unless the
11 peace officer is investigating a person for suspicion of
12 operating a motor vehicle, motorboat, or sailboat while under
13 the influence of marijuana:

14 a. The odor of marijuana.

15 b. The possession of, or the suspicion of the possession of,
16 marijuana, without evidence that the quantity of marijuana is
17 equal to or greater than forty-two and one-half grams.

18 c. The possession of multiple containers of marijuana
19 without evidence that the quantity of marijuana is equal to or
20 greater than forty-two and one-half grams.

21 d. The possession of marijuana in proximity to any amount of
22 cash without evidence that the quantity of marijuana is equal
23 to or greater than forty-two and one-half grams.

24 6. A civil penalty assessed pursuant to this section shall
25 be collected by the clerk of the district court and shall be
26 distributed as provided in section 602.8105, subsection 4.

27 Sec. 3. Section 124.414, subsection 3, Code 2015, is amended
28 to read as follows:

29 3. A person who violates this section commits a simple
30 misdemeanor. However, if the drug paraphernalia was not
31 offered for sale the violation shall be prosecuted and punished
32 as provided in section 124.401G.

33 Sec. 4. Section 602.8105, subsection 4, Code 2015, is
34 amended to read as follows:

35 4. The clerk of the district court shall collect a civil

1 penalty assessed against a ~~retailer~~ person pursuant to
2 section 124.401G or against a retailer pursuant to section
3 126.23B. Any moneys collected from the civil penalty shall be
4 distributed to the city or county that brought the enforcement
5 action for a violation of section 124.401G or 126.23A.

6 EXPLANATION

7 The inclusion of this explanation does not constitute agreement with
8 the explanation's substance by the members of the general assembly.

9 This bill relates to the possession, manufacture, or
10 delivery of marijuana, the possession of drug paraphernalia,
11 and provides penalties.

12 The bill provides that a person who violates Code section
13 124.401(1) involving less than 42.5 grams of marijuana that was
14 not offered for sale shall be assessed a civil penalty in the
15 amount of \$25. Current law specifies that the person commits
16 anywhere from a serious misdemeanor to a class "D" felony
17 depending on the circumstances of the case.

18 The bill provides that a person who violates Code section
19 124.414 involving drug paraphernalia that was not offered for
20 sale shall be assessed a civil penalty in the amount of \$25.
21 Current law provides that a violation of Code section 124.414
22 is a simple misdemeanor.

23 The bill shall not be construed to allow any of the
24 following: the sale of marijuana or drug paraphernalia; the
25 use of marijuana or the display of drug paraphernalia in a
26 public place; the possession, manufacture, or delivery of
27 marijuana or drug paraphernalia in the workplace; an employer's
28 regulation of marijuana use by an employee; the operation
29 of a motor vehicle, motorboat, or sailboat while under the
30 influence of marijuana; or prohibiting any person, business,
31 organization, or a governmental agency that occupies, owns,
32 or controls any real property, from prohibiting or regulating
33 marijuana on such property.

34 The bill specifies that the existence of any of the following
35 circumstances shall not constitute reasonable suspicion

1 of a crime either individually or in combination with each
2 other, unless the peace officer is investigating a person for
3 suspicion of operating a motor vehicle, motorboat, or sailboat
4 while under the influence of marijuana: the odor of marijuana;
5 the possession of, or the suspicion of the possession of,
6 marijuana, without evidence that the quantity of marijuana is
7 equal to or greater than 42.5 grams; the possession of multiple
8 containers of marijuana without evidence that the quantity
9 of marijuana is equal to or greater than 42.5 grams; and the
10 possession of marijuana in proximity to any amount of cash
11 without evidence that the quantity of marijuana is equal to or
12 greater than 42.5 grams.