

**Senate File 2180 - Introduced**

SENATE FILE 2180  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 432)  
(SUCCESSOR TO SF 280)

**A BILL FOR**

1 An Act relating to the possession of marijuana, and providing  
2 a penalty.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 124.401, subsection 5, Code 2018, is  
2 amended to read as follows:

3 5. It is unlawful for any person knowingly or intentionally  
4 to possess a controlled substance unless such substance was  
5 obtained directly from, or pursuant to, a valid prescription  
6 or order of a practitioner while acting in the course of the  
7 practitioner's professional practice, or except as otherwise  
8 authorized by this chapter. Any Except as otherwise provided  
9 in this subsection, any person who violates this subsection  
10 is guilty of a serious misdemeanor for a first offense. A  
11 person who commits a violation of this subsection and who has  
12 previously been convicted of violating this chapter or chapter  
13 124B or 453B, or chapter 124A as it existed prior to July 1,  
14 2017, is guilty of an aggravated misdemeanor. A person who  
15 commits a violation of this subsection and has previously  
16 been convicted two or more times of violating this chapter or  
17 chapter 124B or 453B, or chapter 124A as it existed prior to  
18 July 1, 2017, is guilty of a class "D" felony.

19 a. (1) If Except as otherwise provided in subparagraph (4),  
20 if the controlled substance is marijuana, the punishment shall  
21 be by imprisonment in the county jail for not more than six  
22 months or by a fine of not more than one thousand dollars, or by  
23 both such fine and imprisonment for a first offense.

24 (2) If the controlled substance is marijuana and the person  
25 has been previously convicted of a violation of this subsection  
26 in which the controlled substance was marijuana, the punishment  
27 shall be as provided in section 903.1, subsection 1, paragraph  
28 "b".

29 (3) If the controlled substance is marijuana and the person  
30 has been previously convicted two or more times of a violation  
31 of this subsection in which the controlled substance was  
32 marijuana, the person is guilty of an aggravated misdemeanor.

33 (4) If the controlled substance is marijuana and is five  
34 grams or less and subparagraphs (2) and (3) do not apply, the  
35 person is guilty of a simple misdemeanor.

1 b. All or any part of a sentence imposed pursuant to  
2 this subsection may be suspended and the person placed upon  
3 probation upon such terms and conditions as the court may  
4 impose including the active participation by such person in a  
5 drug treatment, rehabilitation or education program approved  
6 by the court.

7 c. If a person commits a violation of **this subsection**, the  
8 court shall order the person to serve a term of imprisonment of  
9 not less than forty-eight hours. Any sentence imposed may be  
10 suspended, and the court shall place the person on probation  
11 upon such terms and conditions as the court may impose. If  
12 the person is not sentenced to confinement under the custody  
13 of the director of the department of corrections, the terms  
14 and conditions of probation shall require submission to random  
15 drug testing. If the person fails a drug test, the court may  
16 transfer the person's placement to any appropriate placement  
17 permissible under the court order.

18 d. If the controlled substance is amphetamine, its salts,  
19 isomers, or salts of its isomers, or methamphetamine, its  
20 salts, isomers, or salts of its isomers, the court shall order  
21 the person to serve a term of imprisonment of not less than  
22 forty-eight hours. Any sentence imposed may be suspended,  
23 and the court shall place the person on probation upon such  
24 terms and conditions as the court may impose. The court may  
25 place the person on intensive probation. However, the terms  
26 and conditions of probation shall require submission to random  
27 drug testing. If the person fails a drug test, the court may  
28 transfer the person's placement to any appropriate placement  
29 permissible under the court order.

30 EXPLANATION

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

33 This bill relates to the possession of marijuana.  
34 The bill provides that a person who possesses five grams  
35 or less of marijuana commits a simple misdemeanor for a first

1 offense. A simple misdemeanor is punishable by confinement for  
2 no more than 30 days or a fine of at least \$65 but not more than  
3 \$625 or by both.

4 Current law provides that a person who commits first  
5 offense possession of marijuana commits a serious misdemeanor  
6 punishable by confinement for not more than six months or by  
7 a fine of not more than \$1,000 or by both. The bill does not  
8 modify the penalty for second offense possession of marijuana  
9 which is punishable by confinement for no more than one year  
10 and a fine of at least \$315 but not more than \$1,875. The bill  
11 also does not modify the penalty for a third or subsequent  
12 possession of marijuana offense which is punishable by  
13 confinement for no more than two years and a fine of at least  
14 \$625 but not more than \$6,250.