

Senate File 432 - Introduced

SENATE FILE 432
BY COMMITTEE ON JUDICIARY

(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 2017, 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 124A, 124B, or 453B is guilty of an aggravated misdemeanor.
14 A person who commits a violation of this subsection and has
15 previously been convicted two or more times of violating this
16 chapter or chapter 124A, 124B, or 453B is guilty of a class "D"
17 felony.

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

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

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

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

35 (5) A person may knowingly or intentionally recommend,

1 possess, use, dispense, deliver, transport, or administer
2 cannabidiol if the recommendation, possession, use, dispensing,
3 delivery, transporting, or administering is in accordance
4 with the provisions of [chapter 124D](#). For purposes of this
5 paragraph, "*cannabidiol*" means the same as defined in section
6 124D.2.

7 b. All or any part of a sentence imposed pursuant to
8 this subsection may be suspended and the person placed upon
9 probation upon such terms and conditions as the court may
10 impose including the active participation by such person in a
11 drug treatment, rehabilitation or education program approved
12 by the court.

13 c. If a person commits a violation of [this subsection](#), the
14 court shall order the person to serve a term of imprisonment of
15 not less than forty-eight hours. Any sentence imposed may be
16 suspended, and the court shall place the person on probation
17 upon such terms and conditions as the court may impose. If
18 the person is not sentenced to confinement under the custody
19 of the director of the department of corrections, the terms
20 and conditions of probation shall require submission to random
21 drug testing. If the person fails a drug test, the court may
22 transfer the person's placement to any appropriate placement
23 permissible under the court order.

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

1

EXPLANATION

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

3

4 This bill relates to the possession of marijuana.

5 The bill provides that a person who possesses five grams
6 or less of marijuana commits a simple misdemeanor for a first
7 offense. A simple misdemeanor is punishable by confinement for
8 no more than 30 days or a fine of at least \$65 but not more than
9 \$625 or by both.

10 Current law provides that a person who commits first
11 offense possession of marijuana commits a serious misdemeanor
12 punishable by confinement for not more than six months or by
13 a fine of not more than \$1,000 or by both. The bill does not
14 modify the penalty for second offense possession of marijuana
15 which is punishable by confinement for no more than one year
16 and a fine of at least \$315 but not more than \$1,875. The bill
17 also does not modify the penalty for a third or subsequent
18 possession of marijuana offense which is punishable by
19 confinement for no more than two years and a fine of at least
20 \$625 but not more than \$6,250.