

House File 2208 - Introduced

HOUSE FILE 2208

BY SHIPLEY

A BILL FOR

1 An Act relating to marijuana, including the elimination
2 of criminal penalties relating to the use, possession,
3 manufacture, and delivery of marijuana.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 124.204, subsection 4, paragraph m, Code
2 2020, is amended by striking the paragraph.

3 Sec. 2. Section 124.206, subsection 7, paragraph a, Code
4 2020, is amended by striking the paragraph.

5 Sec. 3. Section 124.401, subsection 1, unnumbered paragraph
6 1, Code 2020, is amended to read as follows:

7 Except as authorized by [this chapter](#) or [chapter 124E](#),
8 it is unlawful for any person to manufacture, deliver, or
9 possess with the intent to manufacture or deliver, a controlled
10 substance, a counterfeit substance, a simulated controlled
11 substance, or an imitation controlled substance, or to act
12 with, enter into a common scheme or design with, or conspire
13 with one or more other persons to manufacture, deliver, or
14 possess with the intent to manufacture or deliver a controlled
15 substance, a counterfeit substance, a simulated controlled
16 substance, or an imitation controlled substance.

17 Sec. 4. Section 124.401, subsection 1, paragraph a,
18 subparagraph (6), Code 2020, is amended by striking the
19 subparagraph.

20 Sec. 5. Section 124.401, subsection 1, paragraph b,
21 subparagraph (6), Code 2020, is amended by striking the
22 subparagraph.

23 Sec. 6. Section 124.401, subsection 1, paragraph c,
24 subparagraph (5), Code 2020, is amended by striking the
25 subparagraph.

26 Sec. 7. Section 124.401, subsection 1, paragraph c,
27 subparagraph (9), Code 2020, is amended to read as follows:

28 (9) Any other controlled substance, counterfeit substance,
29 simulated controlled substance, or imitation controlled
30 substance classified in schedule I, II, or III, except as
31 provided in paragraph "d", or in [chapter 124E](#).

32 Sec. 8. Section 124.401, subsection 1, paragraph d, Code
33 2020, is amended to read as follows:

34 *d.* Violation of [this subsection](#), with respect to any other
35 controlled substances, counterfeit substances, simulated

1 controlled substances, or imitation controlled substances
2 classified in schedule IV or V is an aggravated misdemeanor.
3 However, violation of **this subsection** involving ~~fifty kilograms~~
4 ~~or less of marijuana or involving flunitrazepam~~ is a class "D"
5 felony.

6 Sec. 9. Section 124.401, subsection 5, unnumbered paragraph
7 2, Code 2020, is amended to read as follows:

8 ~~If the controlled substance is marijuana, the punishment~~
9 ~~shall be by imprisonment in the county jail for not more than~~
10 ~~six months or by a fine of not more than one thousand dollars,~~
11 ~~or by both such fine and imprisonment for a first offense. If~~
12 ~~the controlled substance is marijuana and the person has been~~
13 ~~previously convicted of a violation of **this subsection** in which~~
14 ~~the controlled substance was marijuana, the punishment shall be~~
15 ~~as provided in **section 903.1, subsection 1**, paragraph "b". If~~
16 ~~the controlled substance is marijuana and the person has been~~
17 ~~previously convicted two or more times of a violation of this~~
18 ~~subsection in which the controlled substance was marijuana, the~~
19 ~~person is guilty of an aggravated misdemeanor. This subsection~~
20 ~~does not apply to the possession of marijuana.~~

21 Sec. 10. Section 124.407, subsection 2, Code 2020, is
22 amended to read as follows:

23 2. ~~a.~~ Any person who violates **this section** and where the
24 controlled substance is ~~any one~~ a controlled substance other
25 than marijuana is guilty of a class "D" felony.

26 ~~b.~~ Any person who violates ~~this section~~, and where the
27 controlled substance is marijuana only, is guilty of a serious
28 misdemeanor.

29 Sec. 11. Section 124.411, subsection 2, Code 2020, is
30 amended to read as follows:

31 2. For purposes of **this section**, an offense is considered
32 a second or subsequent offense, if, prior to the person's
33 having been convicted of the offense, the offender has ever
34 been convicted under **this chapter** or under any state or federal
35 statute relating to narcotic drugs or cocaine, ~~marijuana,~~

1 depressant, stimulant, or hallucinogenic drugs.

2 Sec. 12. Section 124.413, subsection 2, Code 2020, is
3 amended by striking the subsection.

4 Sec. 13. Section 124.506A, subsection 1, Code 2020, is
5 amended to read as follows:

6 1. Notwithstanding the provisions of [section 124.506](#), if
7 ~~more than ten pounds of marijuana or more than one pound of any~~
8 ~~other~~ controlled substance is seized as a result of a violation
9 of [this chapter](#), the law enforcement agency responsible for
10 retaining the seized controlled substance may destroy the
11 seized controlled substance if the law enforcement agency
12 retains at least ~~ten pounds of the marijuana seized or at least~~
13 one pound of any ~~other~~ controlled substance seized for evidence
14 purposes.

15 Sec. 14. Section 124E.12, subsection 1, Code 2020, is
16 amended to read as follows:

17 1. A health care practitioner, including any authorized
18 agent or employee thereof, shall not be subject to
19 prosecution for the unlawful certification, ~~possession~~, or
20 administration of marijuana under the laws of this state for
21 activities arising directly out of or directly related to the
22 certification or use of medical cannabidiol in the treatment
23 of a patient diagnosed with a debilitating medical condition
24 as authorized by [this chapter](#).

25 Sec. 15. Section 124E.12, subsection 4, Code 2020, is
26 amended by striking the subsection.

27 Sec. 16. Section 232.45, subsection 14, paragraph a, Code
28 2020, is amended to read as follows:

29 a. If a child who is alleged to have delivered,
30 manufactured, or possessed with intent to deliver or
31 manufacture, a controlled substance ~~except marijuana~~, as
32 defined in [chapter 124](#), is waived to district court for
33 prosecution, the mandatory minimum sentence provided in section
34 124.413 shall not be imposed if a conviction is had; however,
35 each child convicted of such an offense shall be confined for

1 not less than thirty days in a secure facility.

2 Sec. 17. Section 453B.1, subsection 3, paragraph a,
3 subparagraph (1), Code 2020, is amended to read as follows:

4 (1) Seven or more grams of a taxable substance ~~other than~~
5 ~~marijuana, but including a taxable substance that is a mixture~~
6 ~~of marijuana and other taxable substances.~~

7 Sec. 18. Section 453B.1, subsection 3, paragraph a,
8 subparagraphs (2) and (3), Code 2020, are amended by striking
9 the subparagraphs.

10 Sec. 19. Section 453B.1, subsections 7, 8, and 11, Code
11 2020, are amended by striking the subsections.

12 Sec. 20. Section 453B.1, subsection 10, Code 2020, is
13 amended to read as follows:

14 10. "*Taxable substance*" means a controlled substance, a
15 counterfeit substance, or a simulated controlled substance, ~~or~~
16 ~~marijuana~~, or a mixture of materials that contains a controlled
17 substance, counterfeit substance, or simulated controlled
18 substance, ~~or marijuana.~~

19 Sec. 21. Section 453B.4, Code 2020, is amended to read as
20 follows:

21 **453B.4 Measurements.**

22 For purposes of measurements under [this chapter](#), the
23 weight of a taxable substance shall be measured by its weight
24 in metric grams in the dealer's possession. ~~If a taxable~~
25 ~~substance consists of a mixture containing both marijuana and~~
26 ~~another substance or combination of substances listed in the~~
27 ~~definition of taxable substance in [section 453B.1](#), the taxable~~
28 ~~substance shall be taxed under [section 453B.7, subsection 2.](#)~~

29 Sec. 22. Section 453B.7, Code 2020, is amended to read as
30 follows:

31 **453B.7 Tax imposed — rate of tax.**

32 An excise tax is imposed on dealers at the following rates:

33 ~~1. On each gram of processed marijuana, or each portion of a~~
34 ~~gram, five dollars.~~

35 ~~2.~~ 1. On each gram or portion of a gram of any taxable

1 substance, ~~other than marijuana,~~ sold by weight, two hundred
2 fifty dollars.

3 ~~3. On each unprocessed marijuana plant, seven hundred fifty~~
4 ~~dollars.~~

5 ~~4.~~ 2. On each ten dosage units of any taxable substance,
6 ~~other than unprocessed marijuana plants,~~ that is not sold by
7 weight, or portion thereof, four hundred dollars.

8 Sec. 23. REPEAL. Section 124.410, Code 2020, is repealed.

9

EXPLANATION

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

12 This bill relates to the elimination of criminal penalties
13 relating to the use, possession, manufacture, and delivery
14 of marijuana contained in Code chapter 124 (Iowa's uniform
15 controlled substances Act).

16 Under current law, the manufacture, delivery, or possession
17 with intent to sell more than 1,000 kilograms of marijuana is a
18 class "B" felony punishable by confinement of no more than 50
19 years. The manufacture, delivery, or possession with intent to
20 sell of between 100 kilograms and 1,000 kilograms of marijuana
21 is a class "B" felony punishable by confinement of no more
22 than 25 years. The manufacture, delivery, or possession with
23 intent to sell of between 50 kilograms and 100 kilograms of
24 marijuana is a class "C" felony. The manufacture, delivery,
25 or possession with intent to sell of less than 50 kilograms of
26 marijuana is a class "D" felony. The manufacture, delivery,
27 or possession with intent to sell of between 4 and 12 ounces of
28 marijuana is a class "D" felony. The manufacture, delivery,
29 or possession with intent to sell of fewer than 4 ounces of
30 marijuana is a class "D" felony.

31 The bill removes marijuana from the definition of
32 "hallucinogenic substances".

33 Under current law, a person who unlawfully possesses
34 marijuana shall be punished by imprisonment in the county jail
35 for not more than six months or by a fine of not more \$1,000, or

1 by both, for a first offense. For a second offense, the person
2 commits a serious misdemeanor. For a third or subsequent
3 offense, a person commits an aggravated misdemeanor.

4 The bill strikes a provision making it a serious misdemeanor
5 for a person to sponsor, promote, or aid in the sponsoring
6 or promoting of a meeting or gathering with the knowledge or
7 intent that marijuana be distributed, used, or possessed at the
8 meeting or gathering in violation of Code chapter 124.

9 The bill strikes a provision allowing a prosecution for
10 unlawful delivery or possession with intent to deliver
11 marijuana, if the prosecution proves that the defendant
12 delivered or possessed with intent to deliver one-half ounce
13 or less of marijuana which was not offered for sale, the
14 defendant is guilty of an accommodation offense and rather
15 than being sentenced for a class "D" felony under Code section
16 124.401(1)(d), the person is sentenced for a misdemeanor in
17 violation of Code section 124.401(5).

18 Currently, a person convicted of a second or subsequent
19 offense under Code chapter 124 may be punished by imprisonment
20 for a period not to exceed three times the term otherwise
21 authorized, or fined not more than three times the amount
22 otherwise authorized. The bill strikes the provision that
23 allows for the use of a previous marijuana conviction in
24 determining if a person has been convicted of a second or
25 subsequent offense under Code chapter 124.

26 The bill alters provisions in Code chapter 453B (excise
27 taxes on unlawful dealing in certain substances) by removing
28 references to marijuana. The bill also removes references to
29 marijuana in Code sections relating to parole eligibility and
30 large seizures of controlled substances.

31 The bill makes conforming Code changes to Code sections
32 124E.12 (use of medical cannabidiol — affirmative defenses)
33 and 232.45 (juvenile court waiver, marijuana offenses by
34 juvenile).