

House File 2431 - Introduced

HOUSE FILE 2431

BY SHIPLEY

A BILL FOR

1 An Act eliminating controlled, counterfeit, simulated,
2 imitation, and precursor substance-related criminal offenses
3 and including effective date provisions.

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

1 DIVISION I
2 FINDINGS

3 Section 1. PUBLIC HEALTH ISSUE — ADDICTION AND SUBSTANCE
4 ABUSE. The general assembly finds that addiction and substance
5 abuse are public health issues and further finds that the
6 criminalization of addiction and substance abuse has failed
7 to reduce recidivism. The general assembly fully supports a
8 reorientation toward treating addiction and substance abuse as
9 a public health issue over criminalization.

10 DIVISION II

11 ELIMINATION OF CERTAIN CONTROLLED SUBSTANCE OFFENSES

12 Sec. 2. REPEAL. Sections 124.401, 124.401A, 124.401B,
13 124.401C, 124.401D, 124.401E, 124.401F, 124.406, 124.406A,
14 124.407, 124.408, 124.409, 124.410, 124.411, 124.412, 124.413,
15 124.414, 124.415, 124.416, 124.417, and 155A.24, Code 2020, are
16 repealed.

17 Sec. 3. REPEAL. Chapters 124B and 453B, Code 2020, are
18 repealed.

19 DIVISION III

20 CONFORMING CHANGES TO CODE

21 Sec. 4. Section 124.418, subsection 2, Code 2020, is amended
22 by striking the subsection.

23 Sec. 5. Section 124E.12, subsection 4, Code 2020, is amended
24 by striking the subsection.

25 Sec. 6. Section 124E.16, subsection 1, Code 2020, is amended
26 by striking the subsection.

27 Sec. 7. Section 125.44, subsection 5, Code 2020, is amended
28 to read as follows:

29 5. The department is liable for the cost of care, treatment,
30 and maintenance of persons with substance-related disorders
31 admitted to the facility voluntarily or pursuant to section
32 125.75, 125.81, or 125.91 or section 321J.3 or ~~124.409~~ only
33 to those facilities that have a contract with the department
34 under [this section](#), only for the amount computed according to
35 and within the limits of liability prescribed by [this section](#),

1 and only when the person with a substance-related disorder is
2 unable to pay the costs and there is no other person, firm,
3 corporation, or insurance company bound to pay the costs.

4 Sec. 8. Section 125.89, subsection 2, Code 2020, is amended
5 by striking the subsection.

6 Sec. 9. Section 155A.6, subsection 3, Code 2020, is amended
7 to read as follows:

8 3. The board shall establish standards for
9 pharmacist-intern registration and may deny, suspend,
10 or revoke a pharmacist-intern registration for failure to meet
11 the standards or for any violation of the laws of this state,
12 another state, or the United States relating to prescription
13 drugs, controlled substances, or nonprescription drugs, or for
14 any violation of [this chapter](#) or [chapter 124](#), ~~124B~~, [126](#), [147](#),
15 or [205](#), or any rule of the board.

16 Sec. 10. Section 155A.6A, subsection 5, Code 2020, is
17 amended to read as follows:

18 5. The board may deny, suspend, or revoke the registration
19 of, or otherwise discipline, a registered pharmacy technician
20 for any violation of the laws of this state, another state, or
21 the United States relating to prescription drugs, controlled
22 substances, or nonprescription drugs, or for any violation of
23 this chapter or [chapter 124](#), ~~124B~~, [126](#), [147](#), [205](#), or [272C](#), or
24 any rule of the board.

25 Sec. 11. Section 155A.6B, subsection 5, Code 2020, is
26 amended to read as follows:

27 5. The board may deny, suspend, or revoke the registration
28 of a pharmacy support person or otherwise discipline the
29 pharmacy support person for any violation of the laws of
30 this state, another state, or the United States relating to
31 prescription drugs, controlled substances, or nonprescription
32 drugs, or for any violation of [this chapter](#) or [chapter 124](#),
33 ~~124B~~, [126](#), [147](#), [205](#), or [272C](#), or any rule of the board.

34 Sec. 12. Section 155A.13A, subsection 5, paragraph d, Code
35 2020, is amended to read as follows:

1 *d.* Any violation of [this chapter](#) or [chapter 124, ~~124B~~, 126,](#)
2 or [205](#), or rule of the board.

3 Sec. 13. Section 155A.13C, subsection 5, paragraph *d*, Code
4 2020, is amended to read as follows:

5 *d.* Any violation of [this chapter](#) or [chapter 124, ~~124B~~, 126,](#)
6 or [205](#), or rule of the board.

7 Sec. 14. Section 155A.17, subsection 4, Code 2020, is
8 amended to read as follows:

9 4. The board may deny, suspend, or revoke a wholesale
10 distributor license, or otherwise discipline a wholesale
11 distributor, for failure to meet the applicable standards or
12 for a violation of the laws of this state, another state, or
13 the United States, or for a violation of [this chapter](#), chapter
14 124, ~~124B~~, 126, or [205](#), or a rule of the board.

15 Sec. 15. Section 155A.17A, subsection 4, Code 2020, is
16 amended to read as follows:

17 4. The board may deny, suspend, or revoke a third-party
18 logistics provider license, or otherwise discipline a
19 third-party logistics provider, for failure to meet the
20 applicable standards or for a violation of the laws of this
21 state, another state, or the United States, or for a violation
22 of [this chapter](#), [chapter 124, ~~124B~~, 126](#), or [205](#), or a rule of
23 the board.

24 Sec. 16. Section 155A.42, subsection 3, Code 2020, is
25 amended to read as follows:

26 3. The board may deny, suspend, or revoke a limited
27 distributor's license, or otherwise discipline a limited
28 distributor, for failure to meet the applicable standards or
29 for a violation of the laws of this state, another state, or
30 the United States, or for a violation of [this chapter](#), chapter
31 124, ~~124B~~, 126, or [205](#), or a rule of the board.

32 Sec. 17. Section 200.18, subsection 2, paragraph *b*, Code
33 2020, is amended by striking the paragraph.

34 Sec. 18. Section 204.7, subsection 5, unnumbered paragraph
35 1, Code 2020, is amended to read as follows:

1 A licensee is not subject to a criminal offense under chapter
2 124 ~~or 453B~~ for producing, possessing, using, harvesting,
3 handling, manufacturing, marketing, transporting, delivering,
4 or distributing hemp, if all of the following apply:

5 Sec. 19. Section 204.7, subsection 6, unnumbered paragraph
6 1, Code 2020, is amended to read as follows:

7 A person other than a licensee is not subject to a criminal
8 offense under [chapter 124](#) ~~or 453B~~ for producing, possessing,
9 using, harvesting, handling, manufacturing, marketing,
10 transporting, delivering, or distributing hemp, while on the
11 licensee's crop site, if all of the following apply:

12 Sec. 20. Section 204.7, subsection 7, unnumbered paragraph
13 1, Code 2020, is amended to read as follows:

14 A person other than a licensee is not subject to a criminal
15 offense under [chapter 124](#) ~~or 453B~~ for possessing, handling,
16 using, manufacturing, marketing, transporting, delivering,
17 or distributing hemp produced in this state, if all of the
18 following apply:

19 Sec. 21. Section 204.7, subsection 8, unnumbered paragraph
20 1, Code 2020, is amended to read as follows:

21 A person is not subject to a criminal offense under chapter
22 124 ~~or 453B~~ for possessing, using, harvesting, handling,
23 manufacturing, marketing, transporting, delivering, or
24 distributing hemp produced in another state, if all of the
25 following apply:

26 Sec. 22. Section 204.7, subsection 9, paragraph d, Code
27 2020, is amended to read as follows:

28 *d.* A hemp product complying with [this subsection](#) is not a
29 controlled substance under [chapter 124](#) ~~or 453B~~.

30 Sec. 23. Section 204.8, subsection 4, Code 2020, is amended
31 to read as follows:

32 4. The department of public safety or a local law
33 enforcement agency may conduct an inspection of a licensee's
34 crop site in order to determine that the licensee is complying
35 with the criminal provisions of [this chapter](#) as well as

1 ~~chapters~~ chapter 124 and 453B. The department of public safety
2 or a local law enforcement agency may conduct a test of the
3 plants obtained by that department or local law enforcement
4 agency from the licensee's crop site during the inspection
5 according to procedures adopted by the department of public
6 safety.

7 Sec. 24. Section 204.14, unnumbered paragraph 1, Code 2020,
8 is amended to read as follows:

9 A person is subject to criminal penalties provided under the
10 applicable provisions in chapter 124 or 453B, if all of the
11 following apply:

12 Sec. 25. Section 204.14, subsection 1, Code 2020, is amended
13 to read as follows:

14 1. The person commits an offense under one of the applicable
15 provisions of chapter 124 or 453B by possessing, handling,
16 using, manufacturing, marketing, transporting, delivering, or
17 distributing the plant cannabis, regardless of whether the
18 plant was produced in compliance with the provisions of this
19 chapter.

20 Sec. 26. Section 204.15, subsection 6, paragraph b, Code
21 2020, is amended to read as follows:

22 *b.* A criminal offense under chapter 124 or 453B arising
23 out of a negligent violation of this chapter, if the licensee
24 would otherwise be guilty of producing, possessing, using,
25 harvesting, handling, or distributing the plant cannabis
26 pursuant to the results of a test conducted pursuant to section
27 204.8.

28 Sec. 27. Section 232.8, subsection 1, paragraph c, Code
29 2020, is amended to read as follows:

30 *c.* Violations by a child, aged sixteen or older, ~~which~~
31 ~~subject the child to the provisions of section 124.401,~~
32 ~~subsection 1, paragraph "e" or "f", or violations of section~~
33 723A.2 which involve a violation of chapter 724, or violation
34 of chapter 724 which constitutes a felony, or violations
35 which constitute a forcible felony are excluded from the

1 jurisdiction of the juvenile court and shall be prosecuted as
2 otherwise provided by law unless the district court transfers
3 jurisdiction of the child to the juvenile court upon motion and
4 for good cause pursuant to [section 803.6](#). Notwithstanding any
5 other provision of the Code to the contrary, the district court
6 may accept from a child in district court a plea of guilty,
7 or may instruct the jury on a lesser included offense to the
8 offense excluded from the jurisdiction of the juvenile court
9 under this paragraph, in the same manner as regarding an adult.
10 The judgment and sentence of a child in district court shall
11 be as provided in [section 901.5](#). However, the juvenile court
12 shall have exclusive original jurisdiction in a proceeding
13 concerning an offense of animal torture as provided in section
14 717B.3A alleged to have been committed by a child under the age
15 of seventeen.

16 Sec. 28. Section 232.22, subsection 1, paragraph e, Code
17 2020, is amended by striking the paragraph.

18 Sec. 29. Section 232.45, subsection 14, Code 2020, is
19 amended by striking the subsection.

20 Sec. 30. Section 232.52, subsection 2, paragraph a,
21 subparagraph (4), subparagraph division (a), subparagraph
22 subdivision (v), Code 2020, is amended by striking the
23 subparagraph subdivision.

24 Sec. 31. Section 232.52, subsection 2, paragraph e,
25 unnumbered paragraph 1, Code 2020, is amended to read as
26 follows:

27 An order transferring the custody of the child, subject to
28 the continuing jurisdiction and custody of the court for the
29 purposes of [section 232.54](#), to the director of the department
30 of human services for purposes of placement in the state
31 training school or other facility, provided that the child is
32 at least twelve years of age and the court finds the placement
33 to be in the best interests of the child or necessary for the
34 protection of the public, and that the child has been found to
35 have committed an act which is a forcible felony, as defined

1 in [section 702.11](#), or a felony violation of ~~section 124.401~~
2 ~~or~~ [chapter 707](#), or the court finds any three of the following
3 conditions exist:

4 Sec. 32. Section 232.147, subsection 17, Code 2020, is
5 amended to read as follows:

6 17. A provision in [this section](#) or [section 232.149A](#) shall
7 not limit or prohibit individuals from performing any duties
8 or responsibilities as required by [section 123.47B](#), ~~124.415~~,
9 [232.47](#), [232.49](#), or [321J.2B](#).

10 Sec. 33. Section 321.215, subsection 1, paragraph b, Code
11 2020, is amended to read as follows:

12 *b.* However, a temporary restricted license shall not be
13 issued to a person whose license is revoked pursuant to a court
14 order issued under section 321.209, subsections 1 through 5 or
15 subsection 7; to a juvenile whose license has been suspended
16 or revoked pursuant to a dispositional order under section
17 232.52, subsection 2, paragraph "a", for a violation of chapter
18 124, ~~or 453B~~ or [section 126.3](#); to a juvenile whose license has
19 been suspended under [section 321.213B](#); or to a person whose
20 license has been suspended pursuant to a court order under
21 section 714.7D. A temporary restricted license may be issued
22 to a person whose license is revoked under section 321.209,
23 subsection 6, only if the person has no previous drag racing
24 convictions. A person holding a temporary restricted license
25 issued by the department under [this section](#) shall not operate
26 a motor vehicle for pleasure.

27 Sec. 34. Section 321.215, subsection 2, unnumbered
28 paragraph 1, Code 2020, is amended to read as follows:

29 Upon conviction and the suspension or revocation of a
30 person's noncommercial driver's license under section 321.209,
31 subsection 5 or 6, or [section 321.210](#), [321.210A](#), or [321.513](#); or
32 upon the denial of issuance of a noncommercial driver's license
33 under [section 321.560](#), based solely on offenses enumerated
34 in [section 321.555](#), subsection 1, paragraph "c", or section
35 321.555, subsection 2; or upon suspension or revocation of

1 a juvenile's driver's license pursuant to a dispositional
2 order under [section 232.52, subsection 2](#), paragraph "a", for
3 a violation of [chapter 124](#) ~~or 453B~~, or [section 126.3](#); or upon
4 suspension of a driver's license pursuant to a court order
5 under [section 714.7D](#), the person may apply to the department
6 for a temporary restricted license to operate a motor vehicle
7 for the limited purpose or purposes specified in [subsection 1](#).
8 The application may be granted only if all of the following
9 criteria are satisfied:

10 Sec. 35. Section 321.279, subsection 3, paragraph b, Code
11 2020, is amended to read as follows:

12 b. The driver is in violation of [section 321J.2](#) ~~or 124.401~~.

13 Sec. 36. Section 421.60, subsection 4, paragraph e, Code
14 2020, is amended by striking the paragraph.

15 Sec. 37. Section 421.60, subsection 5, Code 2020, is amended
16 to read as follows:

17 5. *Damages*. Notwithstanding [section 669.14, subsection 2](#),
18 if the director or an employee of the department recklessly or
19 intentionally disregards any tax law or rule in the collection
20 of any tax, or if the director or an employee of the department
21 knowingly or negligently fails to release a lien against or
22 bond on a taxpayer's property, the taxpayer may file a claim
23 in accordance with the Iowa tort claims Act, [chapter 669](#),
24 for damages against the state. However, the damages shall
25 be limited to the actual direct economic damages suffered
26 by the taxpayer as a proximate result of the actions of the
27 director or employee, plus costs, reduced by the amount of such
28 damages and costs as could reasonably have been mitigated by
29 the taxpayer. The Iowa tort claims Act shall be the exclusive
30 remedy for recovering damages resulting from such actions.

31 ~~This subsection does not apply to the tax imposed by chapter~~
32 ~~453B.~~

33 Sec. 38. Section 462A.34B, subsection 3, paragraph b, Code
34 2020, is amended to read as follows:

35 b. The operator is in violation of [section 462A.14](#) ~~or~~

1 ~~124.401.~~

2 Sec. 39. Section 602.8102, subsection 35, Code 2020, is
3 amended by striking the subsection.

4 Sec. 40. Section 671A.2, subsection 1, paragraph b,
5 subparagraph (10), Code 2020, is amended by striking the
6 subparagraph.

7 Sec. 41. Section 712.1, subsection 2, Code 2020, is amended
8 by striking the subsection.

9 Sec. 42. Section 723A.1, subsection 1, paragraph a, Code
10 2020, is amended by striking the paragraph.

11 Sec. 43. Section 726.6, subsection 1, paragraph g, Code
12 2020, is amended by striking the paragraph.

13 Sec. 44. Section 803.3, subsection 7, paragraph c, Code
14 2020, is amended by striking the paragraph.

15 Sec. 45. Section 809A.4, subsection 2, paragraph b, Code
16 2020, is amended by striking the paragraph.

17 Sec. 46. Section 811.1, subsections 1 and 2, Code 2020, are
18 amended to read as follows:

19 1. A defendant awaiting judgment of conviction and
20 sentencing following either a plea or verdict of guilty of a
21 class "A" felony; forcible felony as defined in [section 702.11](#);
22 any class "B" felony included in [section 462A.14](#) or [707.6A](#); any
23 ~~felony included in [section 124.401](#), subsection 1, paragraph~~
24 ~~"a" or "b"; a second or subsequent offense under section~~
25 ~~124.401, subsection 1, paragraph "c"; any felony punishable~~
26 under [section 902.9, subsection 1, paragraph "a"](#); any public
27 offense committed while detained pursuant to [section 229A.5](#);
28 or any public offense committed while subject to an order of
29 commitment pursuant to [chapter 229A](#).

30 2. A defendant appealing a conviction of a class "A"
31 felony; forcible felony as defined in [section 702.11](#); any class
32 "B" or "C" felony included in [section 462A.14](#) or [707.6A](#); any
33 ~~felony included in [section 124.401](#), subsection 1, paragraph~~
34 ~~"a" or "b"; or a second or subsequent conviction under section~~
35 ~~124.401, subsection 1, paragraph "c"; any felony punishable~~

1 under [section 902.9, subsection 1](#), paragraph "a"; any public
2 offense committed while detained pursuant to [section 229A.5](#);
3 or any public offense committed while subject to an order of
4 commitment pursuant to [chapter 229A](#).

5 Sec. 47. Section 901.10, Code 2020, is amended by striking
6 the section and inserting in lieu thereof the following:

7 **901.10 Reduction of sentence — use of dangerous weapon.**

8 1. A court sentencing a person for the person's first
9 conviction under [section 902.7](#) may, at its discretion, sentence
10 the person to a term less than provided by the statute if
11 mitigating circumstances exist and those circumstances are
12 stated specifically in the record.

13 2. The state may appeal the discretionary decision on the
14 grounds that the stated mitigating circumstances do not warrant
15 a reduction of the sentence.

16 Sec. 48. Section 901.11, subsection 1, Code 2020, is amended
17 by striking the subsection.

18 Sec. 49. Section 902.9, subsection 1, paragraph a, Code
19 2020, is amended by striking the paragraph.

20 Sec. 50. Section 903A.5, subsection 1, Code 2020, is amended
21 to read as follows:

22 1. An inmate shall not be discharged from the custody
23 of the director of the Iowa department of corrections until
24 the inmate has served the full term for which the inmate was
25 sentenced, less earned time and other credits earned and not
26 forfeited, unless the inmate is pardoned or otherwise legally
27 released. Earned time accrued and not forfeited shall apply
28 to reduce a mandatory minimum sentence being served pursuant
29 to ~~section [124.406](#), [124.413](#)~~, [902.7](#), [902.8](#), ~~[902.8A](#)~~, or [902.11](#).
30 An inmate shall be deemed to be serving the sentence from the
31 day on which the inmate is received into the institution. If
32 an inmate was confined to a county jail, municipal holding
33 facility, or other correctional or mental facility at any time
34 prior to sentencing, or after sentencing but prior to the case
35 having been decided on appeal, because of failure to furnish

1 bail or because of being charged with a nonbailable offense,
2 the inmate shall be given credit for the days already served
3 upon the term of the sentence. However, if a person commits
4 any offense while confined in a county jail, municipal holding
5 facility, or other correctional or mental health facility,
6 the person shall not be granted credit for that offense.
7 Unless the inmate was confined in a correctional facility, the
8 sheriff of the county in which the inmate was confined or the
9 officer in charge of the municipal holding facility in which
10 the inmate was confined shall certify to the clerk of the
11 district court from which the inmate was sentenced and to the
12 department of corrections' records administrator at the Iowa
13 medical and classification center the number of days so served.
14 The department of corrections' records administrator, or the
15 administrator's designee, shall apply credit as ordered by the
16 court of proper jurisdiction or as authorized by [this section](#)
17 and [section 907.3, subsection 3](#).

18 Sec. 51. Section 907.3, subsection 1, paragraph a,
19 subparagraph (5), Code 2020, is amended by striking the
20 subparagraph.

21 Sec. 52. Section 907.3, subsection 2, paragraph a,
22 subparagraph (1), Code 2020, is amended by striking the
23 subparagraph.

24 Sec. 53. Section 907.3, subsection 3, paragraph e, Code
25 2020, is amended by striking the paragraph.

26 Sec. 54. Section 911.3, subsection 1, paragraph a, Code
27 2020, is amended to read as follows:

28 a. [Chapter 124, 155A, 453B, 713, 714, 715A, or 716](#).

29 Sec. 55. 2019 Iowa Acts, chapter 130, section 33, is amended
30 to read as follows:

31 SEC. 33. CONTINGENT EFFECTIVE DATE. The amendments to
32 sections 29B.107A, [80.9, 124.204, 124.401, 124.410, 124.411,](#)
33 [124.506A, and 189.1,](#) and new [sections 124.401H, and 317.1D,](#)
34 [453B.17, and 453B.18,](#) as enacted in this division of this
35 Act, shall become effective upon the date of implementation

1 of [chapter 204](#) as described in subsection 1 of the section
2 providing for the contingent implementation of that chapter, as
3 enacted in division I of this Act.

4 Sec. 56. REPEAL. Sections 901.12 and 902.8A, Code 2020,
5 are repealed.

6 Sec. 57. EFFECTIVE DATE. The following, being deemed of
7 immediate importance, takes effect upon enactment:

8 The section of this division of this Act amending 2019 Iowa
9 Acts, chapter 130, section 33.

10 EXPLANATION

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

13 This bill declares addiction and substance abuse as
14 public health issues, and specifies a reorientation toward
15 treating addiction and substance abuse as a public health
16 issue by eliminating criminal offenses related to controlled,
17 counterfeit, simulated, imitation, and precursor substances.

18 The bill strikes criminal penalties, mandatory minimum
19 sentences, and other Code provisions relating to the unlawful
20 actions of any person relating to the manufacture, delivery,
21 possession, or possession with the intent to manufacture
22 or deliver a controlled substance, counterfeit substance,
23 simulated controlled substance, or imitation controlled
24 substance; or to act with, enter into a common scheme or design
25 with, or conspire with one or more persons to manufacture,
26 deliver, or possess with the intent to manufacture or deliver
27 such substances.

28 The bill repeals Code chapters 124B (precursor substances)
29 and 453B (excise tax on unlawful dealing certain substances,
30 known as the drug tax stamp).

31 The bill makes conforming Code changes.

32 The section of the bill amending 2019 Iowa Acts, chapter 130,
33 takes effect upon enactment.