

**House File 34 - Introduced**

HOUSE FILE 34

BY WOLFE

**A BILL FOR**

1 An Act relating to the possession, delivery, or possession with  
2 intent to deliver marijuana, and providing penalties.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 124.401, subsection 5, Code 2019, is  
2 amended to read as follows:

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

19 (2) A violation of paragraph "b" shall not be considered a  
20 previous conviction for purposes of enhancing a penalty under  
21 this paragraph.

22 b. ~~If the controlled substance is marijuana, the punishment~~  
23 ~~shall be by imprisonment in the county jail for not more than~~  
24 ~~six months or by a fine of not more than one thousand dollars,~~  
25 ~~or by both such fine and imprisonment for a first offense. If~~  
26 ~~the controlled substance is marijuana and the person has been~~  
27 ~~previously convicted of a violation of this subsection in which~~  
28 ~~the controlled substance was marijuana, the punishment shall be~~  
29 ~~as provided in section 903.1, subsection 1, paragraph "b". If~~  
30 ~~the controlled substance is marijuana and the person has been~~  
31 ~~previously convicted two or more times of a violation of this~~  
32 ~~subsection in which the controlled substance was marijuana, the~~  
33 ~~person is guilty of an aggravated misdemeanor offense shall~~  
34 ~~be classified as a simple misdemeanor punishable by up to the~~  
35 ~~maximum fine amount provided in section 903.1, subsection~~

1 1, paragraph "a", but shall not be punishable by a term of  
2 imprisonment.

3 c. A person may knowingly or intentionally recommend,  
4 possess, use, dispense, deliver, transport, or administer  
5 cannabidiol if the recommendation, possession, use, dispensing,  
6 delivery, transporting, or administering is in accordance  
7 with the provisions of [chapter 124E](#). For purposes of this  
8 paragraph, "cannabidiol" means the same as defined in section  
9 124E.2.

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

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

29 f. If the controlled substance is amphetamine, its salts,  
30 isomers, or salts of its isomers, or methamphetamine, its  
31 salts, isomers, or salts of its isomers, the court shall order  
32 the person to serve a term of imprisonment of not less than  
33 forty-eight hours. Any sentence imposed may be suspended,  
34 and the court shall place the person on probation upon such  
35 terms and conditions as the court may impose. The court may

1 place the person on intensive probation. However, the terms  
2 and conditions of probation shall require submission to random  
3 drug testing. If the person fails a drug test, the court may  
4 transfer the person's placement to any appropriate placement  
5 permissible under the court order.

6 Sec. 2. Section 124.410, Code 2019, is amended to read as  
7 follows:

8 **124.410 Accommodation offense.**

9 In a prosecution for unlawful delivery or possession with  
10 intent to deliver marijuana, if the prosecution proves that  
11 the defendant violated the provisions of section 124.401,  
12 subsection 1, by proving that the defendant delivered or  
13 possessed with intent to deliver ~~one-half ounce~~ forty-two and  
14 one-half grams or less of marijuana which was not offered for  
15 sale, the defendant is guilty of an accommodation offense and  
16 rather than being sentenced as if convicted for a violation  
17 of [section 124.401, subsection 1](#), paragraph "d", shall be  
18 sentenced as if convicted of a violation of section 124.401,  
19 subsection 5, [paragraph "a"](#). An accommodation offense may be  
20 proved as an included offense under a charge of delivering or  
21 possessing with the intent to deliver marijuana in violation  
22 of [section 124.401, subsection 1](#). [This section](#) does not apply  
23 to hashish, hashish oil, or other derivatives of marijuana as  
24 defined in [section 124.101, subsection 20](#).

25

EXPLANATION

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

28 This bill relates to the possession, delivery, or possession  
29 with intent to deliver marijuana.

30 The bill modifies the penalty for the possession of  
31 marijuana. Under the bill, if a person is convicted of  
32 possession of marijuana, the person commits a simple  
33 misdemeanor punishable by a fine of at least \$65 but not  
34 more than \$625, but shall not be punishable by a term of  
35 imprisonment. The bill also strikes provisions enhancing

1 penalties for multiple convictions for the possession of  
2 marijuana.

3 Currently, if a person commits first offense possession  
4 of marijuana, the offense is punishable by imprisonment in  
5 the county jail for not more than six months or by a fine  
6 of not more than \$1,000, or by both. If a person commits a  
7 second offense possession of marijuana under current law, the  
8 person commits a serious misdemeanor, and a third or subsequent  
9 offense is punishable as an aggravated misdemeanor.

10 The bill does not modify the penalty revoking a person's  
11 driver's license for 180 days if the person is sentenced for  
12 possession of marijuana.

13 The bill also modifies the criminal offense of accommodation  
14 which relates to the unlawful delivery or possession with  
15 intent to deliver marijuana. Under the bill, a person who  
16 unlawfully delivers or possesses with the intent to deliver  
17 42.5 grams or less of marijuana which was not offered for  
18 sale is guilty of an accommodation offense and the offense  
19 shall be punishable as a serious misdemeanor rather than a  
20 class "C" felony. Currently, a person is not eligible for  
21 an accommodation offense if the offense involves more than  
22 one-half ounce (14.17 grams) of marijuana.

23 A simple misdemeanor is punishable by confinement for no  
24 more than 30 days or a fine of at least \$65 but not more than  
25 \$625 or by both. A serious misdemeanor is punishable by  
26 confinement for no more than one year and a fine of at least  
27 \$315 but not more than \$1,875. An aggravated misdemeanor is  
28 punishable by confinement for no more than two years and a fine  
29 of at least \$625 but not more than \$6,250.