

House File 35 - Introduced

HOUSE FILE 35

BY WOLFE

A BILL FOR

1 An Act relating to the criminal offense of possession of drug
2 paraphernalia and sentencing enhancements under Iowa's
3 controlled substances Act.

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

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

3 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 person who violates this
9 subsection is guilty of a serious misdemeanor for a first
10 offense. A person who commits a violation of **this subsection**
11 and who has previously been convicted of violating **this chapter**
12 or **chapter 124B** or **453B**, or **chapter 124A** as it existed prior
13 to July 1, 2017, is guilty of an aggravated misdemeanor. A
14 person who commits a violation of **this subsection** and who
15 has previously been convicted two or more times of violating
16 this chapter or **chapter 124B** or **453B**, or **chapter 124A** as it
17 existed prior to July 1, 2017, is guilty of a class "D" felony.
18 A conviction for a violation of section 124.414 shall not
19 be considered a prior conviction for sentencing enhancement
20 purposes under this paragraph.

21 Sec. 2. Section 124.414, Code 2019, is amended by adding the
22 following new subsection:

23 NEW SUBSECTION. 4. A conviction for a violation of this
24 section shall not be considered a prior conviction for a
25 violation of chapter 124 for sentencing enhancement purposes
26 under section 124.401, subsection 5.

27 EXPLANATION

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

30 This bill relates to the possession of drug paraphernalia
31 and sentencing enhancements.

32 The bill provides that a conviction for knowingly or
33 intentionally manufacturing, delivering, selling, or possessing
34 drug paraphernalia in violation of Code section 124.414 shall
35 not be considered a prior conviction for a violation of Code

1 chapter 124 (Iowa's controlled substances Act) for sentencing
2 enhancement purposes under Code section 124.401(5).
3 The bill makes a conforming change to Code section
4 124.401(5).