

**House File 93 - Introduced**

HOUSE FILE 93  
BY HUNTER, STAED, MASCHER,  
KURTZ, and LENSING

**A BILL FOR**

1 An Act relating to the possession, manufacture, or delivery  
2 of marijuana and the possession of drug paraphernalia, and  
3 providing penalties.

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

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

3 *d.* Violation of **this subsection**, with respect to any other  
4 controlled substances, counterfeit substances, simulated  
5 controlled substances, or imitation controlled substances  
6 classified in schedule IV or V is an aggravated misdemeanor.  
7 However, violation of **this subsection** involving ~~fifty kilograms~~  
8 ~~or less~~ at least forty-two and one-half grams but not more than  
9 fifty kilograms of marijuana or involving flunitrazepam is a  
10 class "D" felony. A violation of this subsection involving  
11 less than forty-two and one-half grams of marijuana shall be  
12 prosecuted and punished as provided in section 124.401G if the  
13 marijuana was not offered for sale, otherwise the violation is  
14 a class "D" felony.

15 Sec. 2. **NEW SECTION. 124.401G Small amount of marijuana —**  
16 **drug paraphernalia — reasonable suspicion — civil penalty.**

17 1. A person who commits a violation of section 124.401,  
18 subsection 1, involving less than forty-two and one-half grams  
19 of marijuana that was not offered for sale shall be assessed a  
20 civil penalty in the amount of twenty-five dollars.

21 2. A person who commits a violation of section 124.414,  
22 if the drug paraphernalia was not offered for sale shall be  
23 assessed a civil penalty in the amount of twenty-five dollars.

24 3. This section shall not be construed to allow any of the  
25 following:

26 *a.* The sale of marijuana or drug paraphernalia.

27 *b.* The use of marijuana or the display of drug paraphernalia  
28 in a public place.

29 *c.* The possession, manufacture, or delivery of marijuana or  
30 drug paraphernalia in the workplace.

31 *d.* An employer's regulation of marijuana use by an employee.

32 *e.* Operating a motor vehicle, motorboat, or sailboat while  
33 under the influence of marijuana.

34 *f.* Prohibiting any person, business, organization, or  
35 other entity, or a governmental agency that occupies, owns,

1 or controls any real property, from prohibiting or regulating  
2 the possession, manufacture, or delivery of marijuana on such  
3 property.

4 4. A peace officer shall confiscate all visible marijuana  
5 or drug paraphernalia associated with a violation punishable  
6 pursuant to this section.

7 5. The existence of any of the following circumstances  
8 shall not constitute reasonable suspicion of a crime either  
9 individually or in combination with each other, unless the  
10 peace officer is investigating a person for suspicion of  
11 operating a motor vehicle, motorboat, or sailboat while under  
12 the influence of marijuana:

13 a. The odor of marijuana.

14 b. The possession of, or the suspicion of the possession of,  
15 marijuana, without evidence that the quantity of marijuana is  
16 equal to or greater than forty-two and one-half grams.

17 c. The possession of multiple containers of marijuana  
18 without evidence that the quantity of marijuana is equal to or  
19 greater than forty-two and one-half grams.

20 d. The possession of marijuana in proximity to any amount of  
21 cash without evidence that the quantity of marijuana is equal  
22 to or greater than forty-two and one-half grams.

23 6. A civil penalty assessed pursuant to this section shall  
24 be collected by the clerk of the district court and shall be  
25 distributed as provided in section 602.8105, subsection 4.

26 Sec. 3. Section 124.414, subsection 3, Code 2019, is amended  
27 to read as follows:

28 3. A person who violates [this section](#) commits a simple  
29 misdemeanor. However, if the drug paraphernalia was not  
30 offered for sale, the violation shall be prosecuted and  
31 punished as provided in section 124.401G.

32 Sec. 4. Section 602.8105, subsection 4, Code 2019, is  
33 amended to read as follows:

34 4. The clerk of the district court shall collect a civil  
35 penalty assessed against a retailer person pursuant to

1 section 124.401G or against a retailer pursuant to section  
2 126.23B. Any moneys collected from the civil penalty shall be  
3 distributed to the city or county that brought the enforcement  
4 action for a violation of [section 124.401G or 126.23A](#).

5 EXPLANATION

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

8 This bill relates to the possession, manufacture, or  
9 delivery of marijuana, the possession of drug paraphernalia,  
10 and provides penalties.

11 The bill provides that a person who violates Code section  
12 124.401(1) involving less than 42.5 grams of marijuana that was  
13 not offered for sale shall be assessed a civil penalty in the  
14 amount of \$25. Current law specifies that the person commits  
15 anywhere from a serious misdemeanor to a class "D" felony  
16 depending on the circumstances of the case.

17 The bill provides that a person who violates Code section  
18 124.414 involving drug paraphernalia that was not offered for  
19 sale shall be assessed a civil penalty in the amount of \$25.  
20 Current law provides that a violation of Code section 124.414  
21 is a simple misdemeanor.

22 The bill shall not be construed to allow any of the  
23 following: the sale of marijuana or drug paraphernalia; the  
24 use of marijuana or the display of drug paraphernalia in a  
25 public place; the possession, manufacture, or delivery of  
26 marijuana or drug paraphernalia in the workplace; an employer's  
27 regulation of marijuana use by an employee; the operation  
28 of a motor vehicle, motorboat, or sailboat while under the  
29 influence of marijuana; or prohibiting any person, business,  
30 organization, or a governmental agency that occupies, owns,  
31 or controls any real property, from prohibiting or regulating  
32 marijuana on such property.

33 The bill specifies that the existence of any of the following  
34 circumstances shall not constitute reasonable suspicion  
35 of a crime either individually or in combination with each

1 other, unless the peace officer is investigating a person for  
2 suspicion of operating a motor vehicle, motorboat, or sailboat  
3 while under the influence of marijuana: the odor of marijuana;  
4 the possession of, or the suspicion of the possession of,  
5 marijuana, without evidence that the quantity of marijuana is  
6 equal to or greater than 42.5 grams; the possession of multiple  
7 containers of marijuana without evidence that the quantity  
8 of marijuana is equal to or greater than 42.5 grams; and the  
9 possession of marijuana in proximity to any amount of cash  
10 without evidence that the quantity of marijuana is equal to or  
11 greater than 42.5 grams.