

Senate File 378 - Introduced

SENATE FILE 378
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1012)

A BILL FOR

1 An Act relating to the possession of marijuana, and providing
2 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. 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 Except as otherwise provided
9 in this subsection, any person who violates this subsection
10 is guilty of a serious misdemeanor for a first offense. A
11 person who commits a violation of **this subsection** and who has
12 previously been convicted of violating **this chapter** or chapter
13 124B or **453B**, or **chapter 124A** as it existed prior to July 1,
14 2017, is guilty of an aggravated misdemeanor. A person who
15 commits a violation of **this subsection** and has previously
16 been convicted two or more times of violating **this chapter** or
17 chapter 124B or **453B**, or **chapter 124A** as it existed prior to
18 July 1, 2017, is guilty of a class "D" felony.

19 a. (1) If Except as otherwise provided in subparagraph (4),
20 if the controlled substance is marijuana, the punishment shall
21 be by imprisonment in the county jail for not more than six
22 months or by a fine of not more than one thousand dollars, or by
23 both such fine and imprisonment for a first offense.

24 (2) If the controlled substance is marijuana and the person
25 has been previously convicted of a violation of **this subsection**
26 in which the controlled substance was marijuana, the punishment
27 shall be as provided in **section 903.1, subsection 1**, paragraph
28 "b".

29 (3) If the controlled substance is marijuana and the person
30 has been previously convicted two or more times of a violation
31 of **this subsection** in which the controlled substance was
32 marijuana, the person is guilty of an aggravated misdemeanor.

33 (4) If the controlled substance is marijuana and is five
34 grams or less and subparagraphs (2) and (3) do not apply, the
35 person is guilty of a simple misdemeanor.

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

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

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

25 e. If the controlled substance is amphetamine, its salts,
26 isomers, or salts of its isomers, or methamphetamine, its
27 salts, isomers, or salts of its isomers, the court shall order
28 the person to serve a term of imprisonment of not less than
29 forty-eight hours. Any sentence imposed may be suspended,
30 and the court shall place the person on probation upon such
31 terms and conditions as the court may impose. The court may
32 place the person on intensive probation. However, the terms
33 and conditions of probation shall require submission to random
34 drug testing. If the person fails a drug test, the court may
35 transfer the person's placement to any appropriate placement

1 permissible under the court order.

2

EXPLANATION

3

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

5

This bill relates to the possession of marijuana.

6

The bill provides that a person who possesses five grams
7 or less of marijuana commits a simple misdemeanor for a first
8 offense. A simple misdemeanor is punishable by confinement for
9 no more than 30 days or a fine of at least \$65 but not more than
10 \$625 or by both.

11

Current law provides that a person who commits first
12 offense possession of marijuana commits a serious misdemeanor
13 punishable by confinement for not more than six months or by
14 a fine of not more than \$1,000 or by both. The bill does not
15 modify the penalty for second offense possession of marijuana
16 which is punishable by confinement for no more than one year
17 and a fine of at least \$315 but not more than \$1,875. The bill
18 also does not modify the penalty for a third or subsequent
19 possession of marijuana offense which is punishable by
20 confinement for no more than two years and a fine of at least
21 \$625 but not more than \$6,250.