

House File 163 - Introduced

HOUSE FILE 163

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A BILL FOR

1 An Act relating to the manufacture, delivery, or possession
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 2021, 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 124.401H if the
13 marijuana was not offered for sale, otherwise the violation is
14 a class "D" felony.

15 Sec. 2. **NEW SECTION. 124.401H 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 2021, 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 124.401H.

32 Sec. 4. Section 602.8105, subsection 4, Code 2021, 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 124.401H 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 124.401H 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 manufacture, delivery, or
9 possession 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)(d) relating to the manufacture, delivery, or
13 possession of marijuana involving less than 42.5 grams of
14 marijuana that was not offered for sale shall be assessed a
15 civil penalty in the amount of \$25. Current law specifies that
16 a violation of this Code section involving 50 kilograms or less
17 of marijuana is a class "D" felony.

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

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

34 The bill specifies that the existence of any of the following
35 circumstances shall not constitute reasonable suspicion

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