

**Senate Study Bill 1226 - Introduced**

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON JUDICIARY BILL BY  
CHAIRPERSON ZAUN)

**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 2021, 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 provided in subparagraph (4), if the  
20 controlled substance is marijuana, the punishment shall be by  
21 imprisonment in the county jail for not more than six months or  
22 by a fine of not more than one thousand dollars, or by both such  
23 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 five grams or less of  
34 marijuana and subparagraphs (2) and (3) do not apply, the  
35 person is guilty of a simple misdemeanor.

1     (5) 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     b. 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     c. 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     d. 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 and a fine of at least \$105 but not more  
10 than \$855.

11 Current law provides that a person who commits first offense  
12 possession of marijuana is subject to no more than six months  
13 imprisonment in a county jail, a fine of no more than \$1,000,  
14 or both.

15 The bill does not modify the penalty for second offense  
16 possession of marijuana which is punishable by a fine of at  
17 least \$430 but not to exceed \$2,560. In addition, the court  
18 may also order imprisonment not to exceed one year. The bill  
19 also does not modify the penalty for a third or subsequent  
20 possession of marijuana offense which is punishable by  
21 confinement for no more than two years and a fine of at least  
22 \$855 but not more than \$8,540.