

**HOUSE BILL NO. 1394**

Introduced by

Representatives Delmore, Beadle, Hawken, K. Koppelman

Senators Armstrong, Luick, Nelson

1 A BILL for an Act to amend and reenact subsections 7 and 9 of section 19-03.1-23 of the North  
2 Dakota Century Code, relating to marijuana possession offenses and penalties.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Subsections 7 and 9 of section 19-03.1-23 of the North Dakota  
5 Century Code are amended and reenacted as follows:

6 7. It is unlawful for any person to willfully, as defined in section 12.1-02-02, possess a  
7 controlled substance or a controlled substance analog unless the substance was  
8 obtained directly from, or pursuant to, a valid prescription or order of a practitioner  
9 while acting in the course of the practitioner's professional practice, or except as  
10 otherwise authorized by this chapter, but any person who violates section 12-46-24 or  
11 12-47-21 may not be prosecuted under this subsection. Except as otherwise provided  
12 in this subsection, any person who violates this subsection is guilty of a class C felony.  
13 If, at the time of the offense the person is in or on, or within one thousand feet [300.48  
14 meters] of the real property comprising a public or private elementary or secondary  
15 school or a public career and technical education school, the person is guilty of a  
16 class B felony, unless the offense involves one ounce [28.35 grams] or less of  
17 marijuana. Any person who violates this subsection regarding possession of ~~one-half~~  
18 ~~ounce [14.175 grams] to~~ one ounce [28.35 grams] or less of marijuana is guilty of a  
19 class AB misdemeanor. ~~Any person, except a person operating a motor vehicle, who~~  
20 ~~violates this subsection regarding possession of less than one-half ounce~~  
21 ~~[14.175 grams] of marijuana is guilty of a class B misdemeanor.~~ Any person who  
22 ~~violates this subsection regarding possession of less than one-half ounce~~  
23 ~~[14.175 grams] of marijuana while operating a motor vehicle is guilty of a class A~~  
24 ~~misdemeanor~~ an infraction.

1           9.   When ~~if~~ a person pleads guilty or is found guilty of a first offense regarding possession  
2           of one ounce [28.35 grams] or less of marijuana ~~or any offense regarding the~~  
3           ~~possession of one half ounce [14.175 grams] or less~~ and a judgment of guilt is  
4           entered, a court, upon motion, shall seal the court record of that conviction if the  
5           person is not subsequently convicted within two years of a further violation of this  
6           chapter ~~and has not been convicted of any other criminal offense~~. Once sealed, the  
7           court record may not be opened even by order of the court.