

**Sixty-sixth Legislative Assembly of North Dakota
In Regular Session Commencing Thursday, January 3, 2019**

HOUSE BILL NO. 1050
(Representatives Roers Jones, Satrom)
(Senators Unruh, Poolman, K. Roers, Myrdal)

AN ACT to amend and reenact subsection 7 of section 12.1-32-01, section 19-03.1-22.3, subdivision d of subsection 8 of section 19-03.1-23, section 19-03.4-03, and subdivision i of subsection 5 of section 39-08-01 of the North Dakota Century Code, relating to multiple convictions of the same infraction, the possession and ingestion of marijuana, the possession of drug paraphernalia and the placement of an individual in a drug and alcohol treatment program by the department of corrections and rehabilitation; to provide for a legislative management study; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 7 of section 12.1-32-01 of the North Dakota Century Code is amended and reenacted as follows:

7. Infraction, for which a maximum fine of one thousand dollars may be imposed. Any person convicted of an infraction who ~~has, within one year prior to~~before commission of the infraction of which the person was convicted, ~~has been previously convicted~~ previously at least twice of an the same offense classified as an infraction may be sentenced as though convicted of a class B misdemeanor. If the prosecution contends that the infraction is punishable as a class B misdemeanor, the complaint ~~shall~~must specify that the offense is a misdemeanor.

SECTION 2. AMENDMENT. Section 19-03.1-22.3 of the North Dakota Century Code is amended and reenacted as follows:

19-03.1-22.3. Ingesting a controlled substance - Venue for violation - Penalty.

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1. Except as provided in subsection 2, a person who intentionally ingests, inhales, injects, or otherwise takes into the body a controlled substance, unless the substance was obtained directly from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, is guilty of a class B misdemeanor if the controlled substance is marijuana. Otherwise, the offense is a class A misdemeanor. This subsection does not apply to ingesting, inhaling, injecting, or otherwise taking into the body marijuana.
2. A person who is under twenty-one years of age and intentionally ingests, inhales, injects, or otherwise takes into the body a controlled substance that is marijuana, unless the substance was medical marijuana obtained in accordance with chapter 19-24.1, is guilty of a class B misdemeanor.
3. The venue for a violation of this section exists in either the jurisdiction in which the controlled substance was ingested, inhaled, injected, or otherwise taken into the body or the jurisdiction in which the controlled substance was detected in the body of the accused.

SECTION 3. AMENDMENT. Subdivision d of subsection 8 of section 19-03.1-23 of the North Dakota Century Code is amended and reenacted as follows:

- d. A person who violates this subsection regarding ~~possession~~by possessing:

- (1) Marijuana in an amount of less than one-half ounce [14.175 grams] is guilty of an infraction.
- (2) At least one-half ounce [14.175 grams] but not more than 500 grams of marijuana is guilty of a class B misdemeanor.
- (3) More than 500 grams of marijuana is guilty of a class A misdemeanor.

SECTION 4. AMENDMENT. Section 19-03.4-03 of the North Dakota Century Code is amended and reenacted as follows:

19-03.4-03. Unlawful possession of drug paraphernalia - Penalty.

1. A person may not use or possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled substance in violation of chapter 19-03.1. AnyA person violating this subsection is guilty of a class C felony if the drug paraphernalia is used, or possessed with intent to be used, to manufacture, compound, convert, produce, process, prepare, test, or analyze a controlled substance, other than marijuana, classified in schedule I, II, or III of chapter 19-03.1.
2. A person may not use or possess with the intent to use drug paraphernalia to inject, ingest, inhale, or otherwise induce into the human body a controlled substance, other than marijuana, classified in schedule I, II, or III of chapter 19-03.1. A person violating this subsection is guilty of a class A misdemeanor. If a person previously has been convicted of an offense under this title, other than an offense related to marijuana, or an equivalent offense from another court in the United States, a violation of this subsection is a class C felony.
3. A person may not use or possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, or repack,~~store, contain, or conceal~~ marijuana in violation of chapter 19-03.1. A person violating this subsection is guilty of a class A misdemeanor.
4. A person may not use or possess with the intent to use drug paraphernalia to ingest, inhale, or otherwise introduce into the human body marijuana or possess with the intent to use drug paraphernalia to store or contain marijuana in violation of chapter 19-03.1. A person violating this subsection is guilty of ~~a class B misdemeanor~~an infraction.
5. A person sentenced to the legal and physical custody of the department of corrections and rehabilitation under this section may be placed in a drug and alcohol treatment program as designated by the department. Upon the successful completion of the drug and alcohol treatment program, the department shall release the person from imprisonment to begin any court-ordered period of probation. If the person is not subject to court-ordered probation, the court may order the person to serve the remainder of the sentence of imprisonment on supervised probation subject to the terms and conditions imposed by the court.
6. Probation under this section may include placement in another facility, treatment program, or drug court. If the person is placed in another facility or treatment program upon release from imprisonment, the remainder of the sentence must be considered as time spent in custody.

SECTION 5. AMENDMENT. Subdivision i of subsection 5 of section 39-08-01 of the North Dakota Century Code is amended and reenacted as follows:

- i. If the court sentences an individual to the legal and physical custody of the department of corrections and rehabilitation, the department may place the individual in an alcohol treatment program designated by the department. Upon the individual's successful completion of the alcohol treatment program, the department shall release the individual from imprisonment to begin the court-ordered period of probation. If there is not any

court-ordered period of probation, the court ~~shall~~may order the individual to serve the remainder of the sentence of imprisonment on supervised probation and the terms and conditions must include participation in the twenty-four seven sobriety program and any terms and conditions of probation previously imposed by the court. Probation under this subsection may include placement in another facility or treatment program. If an individual is placed in another facility or treatment program after release from imprisonment, the remainder of the individual's sentence of imprisonment must be considered time spent in custody. Individuals incarcerated under this section subsequent to a second probation revocation are not eligible for release from imprisonment upon the successful completion of treatment.

SECTION 6. LEGISLATIVE MANAGEMENT STUDY. During the 2019-20 interim, the legislative management shall consider studying the implications of the potential adoption of an initiated measure allowing the use of recreational marijuana. The study must consider the potential benefits and detriments of legalizing recreational marijuana with respect to:

1. The state's economy, including unemployment and homelessness rates; potential tax revenues and job opportunities; spending on public health and safety programs, including law enforcement agencies and drug treatment programs; and tourism, real estate, construction, and banking;
2. Minors, including the rate of drug usage, the effects of marijuana on developing brains, and high school dropout rates;
3. The insurance industry, including health, automobile, and life insurance;
4. The legal system, including crime rates, the prison population, and rates of usage of other drugs;
5. Workers' compensation and work-related accidents;
6. Public health and safety; and
7. The medical marijuana program.

The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-seventh legislative assembly.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1050.

House Vote: Yeas 69 Nays 23 Absent 2

Senate Vote: Yeas 31 Nays 15 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2019.

Approved at _____ M. on _____, 2019.

Governor

Filed in this office this _____ day of _____, 2019,

at _____ o'clock _____ M.

Secretary of State