

**2015 HOUSE JUDICIARY**

**HB 1394**


# 2015 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Prairie Room, State Capitol

HB 1394  
2/11/2015  
23683

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to marijuana possession offenses and penalties.

## Minutes:

Handout #1, Testimony #2

**Chairman K. Koppelman:** Opened the hearing with testimony in support.

**Rep. Lois Delmore:** Introduced the bill and urged favorable consideration on HB 1394.

I drafted this bill after discussing the consequences of marijuana possession with constitutions and with fellow legislators. I believe a dialogue is needed to increase awareness of the often unintended consequences of possession of a small amount of marijuana. 48% of American's have admitted using marijuana. (See handout #1) This is not a bill to legalize marijuana although we are seeing more states passing bills for medical and recreation use. The bill lowers the penalties for lesser amounts of the drug. The sentence about schools is a standalone sentence and it would not change. I have worked with people in law enforcement and with the Attorney General's office and there will be some amendments offered to the bill today. I think it is important for a dialogue to take place. Went over the handout, some of our founding fathers who did raise it, but it does site politicians from both parties who admit along with over 150,000,000 US citizens to using marijuana. Any of these people could easily have a drug conviction that was permanently on their records for a youthful indiscusion if they happen to indulge in the wrong place at the wrong time. A misdemeanor drug offense on your permanent record can affect professional license, employment opportunities, student aid and choice of college and vocation. A conviction at 18 can follow people for 50 years for something that is now legal in other states. I do not think ND is ready to legalize marijuana at this time. It is however time to remove the drug stigma for offenders who possess a small amount of marijuana. I look forward to committee discussion and testimony today. I would urge a do pass on HB 1394.

**Rep. D. Larson:** It is ironic that we are outlawing e-cigarettes for juveniles but saying that the marijuana, everybody is doing it. Are you aware of the research on what marijuana does to a young developing brain?

**Rep. Lois Delmore:** I am, but I am also aware the same thing can be with alcohol and anything else like prescription drugs also. This is not a bill to say you can do this 20 times and we are just going to slap your hand. This bill with some of the amendments offered this bill says a onetime conviction should not affect the rest of your life.

**Rep. L. Klemin:** On page 1, line 16 the exception, unless the offense involves one ounce or less of marijuana it would be a Class B felony in the vicinity of a school so in that case what is the penalty? Is that a Class C felony then?

**Rep. Lois Delmore:** That is addressed later on the bill on line 20.

**Rep. L. Klemin:** On line 11 except that otherwise provided in this subsection it is a Class C felony.

**Rep. Lois Delmore:** It is a Class B felony unless it involves a 1 ounce or less in which case it is a Class B misdemeanor. Go down to line 21. We made it tougher when someone was on or near school property.

**Rep. L. Klemin:** We have a discrepancy so we will have some amendments to prepare. This thing from Wikipedia does not prove any accuracy.

**Rep. P. Anderson:** You can add my name. I tried marijuana and good thing I didn't get caught. I think we should give them one pass so I support your bill.

**Rep. Mary Johnson:** I read this it is a Class C felony for possession; it is a Class B felony if that possession is around a school unless it is 1 ounce or less in which case from a ½ ounce to an ounce is a B misdemeanor and anything under a half ounce is an infraction so I think the bill does cover everything.

**Rep. Lois Delmore:** I do think it covers a lot. I was asked to bring it forward

**Rep. Mary Johnson:** I also tried it, but unlike Rep. Anderson I did enjoy it for a short period of time and it is still illegal.

**Rep. Brabandt:** How much marijuana is in a joint?

**Rep. Lois Delmore:** Maybe someone could show you what it is?

**Chairman K. Koppelman:** You talked about intent to deliver. Is it determined by volume? How do we compare to other states with regard to penalties?

**Rep. Lois Delmore:** I believe it is. Nebraska does if it is 1 ounce or less it is civil citation, \$300 fine and no jail time and then it goes up after that. I know judges are allowed some discretion in our state as well as others.

**Rep. D. Larson:** After working for 23 years as a youth worker with the police department was juveniles that were arrested for drugs and the youth did not believe that there is anything wrong with it and it was a silly law. It tore apart many families and it was one I

could not seem to get the message across even though I showed them pictures of permanent damage after use and we are perpetuating the myth that there is nothing wrong with marijuana.

**Rep. Lois Delmore:** I worked with youth for almost 40 years, but they also have a belief that they are immortal and sometimes they make errors in judgment. I think this bill is saying that for one offense it should not be a felony.

**Chairman K. Koppelman:** Are there any elements in your bill that if we do reduce the penalty for a first time offender that would somehow get the message across that you might be getting off a little lighter today, but let this be a lesson and please change your behavior because here is where it can lead.

**Rep. Lois Delmore:** I was looking at penalties and trying to get someone help if they needed it. This is already something a judge can do. My focus would always be for someone who needed help to get the help they needed.

Opposition:

**Bruce Burkett, ND Police Officers Association:** We have met as a group twice with Rep. Delmore and we have had a good discussion where we think there are issues that need to be addressed. Two items on the first page; if they were a misdemeanor from A to B misdemeanor they can possess 1 ounce or less, 1,000 feet of the school. This does reduce from a B felony. That is not going to be much of an issue because most of the time for the intended purpose of trying to reduce being incarcerated moving it to a B misdemeanor most of the time the small amount of marijuana would not be incarcerated. When we get down to the infraction section we have an issue with that. Almost every discipline did not believe it should be reduced. An infraction does not give the judge an opportunity because it is just a penalty and he is limited in what he can do for a first time offender. By leaving it up to the court they have to understand the consequences of their actions. We are all accountable and life practices do limit what you do. In the current statute they would lose the conviction on record after two years. I think checking it to a B misdemeanor might help and allow the ability of the courts to help first time offenders.

**Rep. Lois Delmore:** There are a lot of 18 year olds and college students that are a lot of young college student too and in many ways there are more ramifications for this age group than anybody. If we would enforce it every judge a prosecutor would show especially on a first offense that same type of leniency perhaps rather than sticking to the letter of the law. Some of those decisions have really cost our young people a lot.

**Bruce Burkett:** That is a life choice. Somebody made those standards for a reason so I assume what we are trying to do here is 1. Help the reduction to a B misdemeanor; instead of an A. Leave it at a misdemeanor giving the court the opportunity to save somebody from a lifelong decision that was wrong.

**Rep. L. Klemin:** line 23 on the bottom of this bill takes out the increase in the penalty if a person is operating a motor vehicle. We have done a lot of work on DUI laws. So this seems to be going backward with possession of marijuana. We are not going to let

someone drive around with a bottom of whiskey in their front seat, but when you are operating a motor vehicle do you have an opinion on whether this operating a motor vehicle should be struck out of here?

**Bruce Burkett:** We agreed if we were going to drop it to a B misdemeanor for any offense and we are talking about one ounce or less, you could stop after line misdemeanor on line 19 the rest of it would be a moot point.

**Rep. L. Klemin:** Are you OK with that?

**Bruce Burkett:** If you eliminate the infraction there is no other issue in the bill.

**Chairman K. Koppelman:** Looking at the back page of the bill what is the impact there?

**Bruce Burkett:** They probably have some lawyers in the room that can tell you that.

Neutral: None

Hearing closed.

(Testimony #2 handed out later)

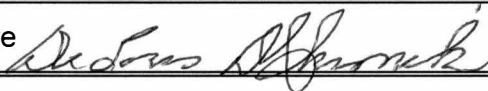
# 2015 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Prairie Room, State Capitol

HB 1394  
2/16/2015  
23934

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature



## Minutes:

Proposed amendment #1

**Chairman K. Koppelman** reopened the discussion on HB 1394.

**Rep. Lois Delmore:** I worked with the Attorney General's office and with law enforcement and this was the agreement that we have reached. Ken Sorenson drafted these amendments.

**Rep. L. Klemin:** Discussed the testimony #2 received 2-11-15 from Dallas Carlson.

**Rep. Lois Delmore:** (See proposed amendment #1) Went through the amendment. (2:06-4:10)

**Chairman K. Koppelman:** What would this change?

**Rep. Lois Delmore:** The biggest change that they will make is to go to B misdemeanor. It also will give a clearer idea to our prosecutors and judges that the punishment should fit the crime.

**Chairman K. Koppelman:** I think I would like to see the amendment in place before we vote on the bill is that alright? So if we adopt the amendment based on your point essentially what it would do is remove the infraction from the bill. From current law it would change the Class B misdemeanor. What would that offense be then?

**Rep. Lois Delmore:** That moves it from an A to a B. The fine is less.

**Rep. Lois Delmore moved her amendment; Seconded by Rep. K. Hawken:**

Discussion:

**Chairman K. Koppelman:** We can come back if we want to and change this. Mr. Burkett had a major concern with the infraction.

House Judiciary Committee  
HB 1394  
February 16, 2015  
Page 2

Voice vote carried.

Closed.

# 2015 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Prairie Room, State Capitol

HB 1394  
2/17/2015  
23962

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature



## Minutes:

Proposed amendment #1

**Chairman K. Koppelman:** Opened the meeting on HB 1394.

**Rep. Lois Delmore:** (See proposed amendment #1) (:21-:55) Went over the amendment.

**Chairman K. Koppelman:** So in the amendment we get rid of the infraction. The difference between a Class A is a maximum of one year and a fine of \$3000 or both; and a Class B is maximum of 30 days and a fine of \$1500 so it cuts the financial liability in half and significantly reduces the incarceration time. Class A in the courts if someone is convicted of the offense now do they serve 6 months or what?

**Rep. Lois Delmore:** That is the reason they did not want the infraction because they can't track it. This is on the record and can be expunged after two years. There is not a lot of uniformity in the courts and this gives a little more direction.

**Motion Made to Move the amendment by Rep. Lois Delmore: Seconded by Rep. K. Hawken:**

Discussion:

**Rep. G. Paur:** We are dropping that one ounce to half ounce and we are making everything below an ounce?

**Rep. Lois Delmore:** One ounce or less of marijuana is Class B misdemeanor.

**Rep. G. Paur:** Before there was an ounce to a half ounce and then a half ounce lower so we are simplifying that.

**Rep. K. Wallman:** Based on the language on the second page after two years you can have a new first time offense? That is current law.

**Rep. L. Klemin:** Those penalties the chairman just mentioned are maximums and the court doesn't have to send somebody to jail at all. It could be a monetary fine of \$100 or whatever

**Rep. D. Larson:** With an infraction that was in there before the judge wouldn't be able to send someone to treatment. The judge would have no authority to even say OK what you have done is a real concern and I need to assign you to attend treatment and community service or whatever they want to assign. I think it is a better amendment.

**Voice vote carried**

**Do Pass As Amended by Rep. Mary Johnson: Seconded by Rep. G. Paur**

**Rep. D. Larson:** I have a little discomfort with removing the last page and have not been convicted of any other offense. I think a lot of times people that are using drugs are selling items that don't belong to them; stealing things and hocking them and those kinds of things and so a lot of the time other offenses are defiantly a part of their addiction and should be considered in the court proceedings. It is two years of any violation. If you are not getting charged with anything then it still makes it a first time offense for the marijuana charge, but if you are continuing to do a lot of other crime I think the judge should be able to take all that into consideration so I don't like that portion of the bill. I don't like that we are reducing the maximum penalty that can be allowed. I think the judge should be able to look at this situation and charge for the Class A misdemeanor. I won't be supporting this bill.

**Rep. L. Klemin:** In Montana you can get medical marijuana and recreational marijuana is available in other states so I think there are too many people getting caught in the trap that thinking it was legal where I bought it so why can't I have it here? Then find out I could go to jail for a year because I bought a legal product in Montana or Washington. I think this recognizes that situation. So I am going to support it.

**Rep. Brabandt:** When marijuana is purchased do you buy it by the ounce and the cost?

**Rep. Mary Johnson:** You can buy in lid form, ounce, pound form or a tie stick. It comes in various quantities and various prices.

**Rep. L. Klemin:** An email from law enforcement about quantity issue and it says a basic measurement is 1 ounce = 28.34 grams. (See letter from Dallas Carlson).

**Chairman K. Koppelman:** This bill is alternatives to incarnation that we have looked at very carefully and passed legislation for studying and when we look at the paraphilia issues etc. it is a tough dilemma. I also recognize locking someone up who may be made a mistake and broken a law but isn't a harden criminal next to someone who is has other issues and how we balance that is hard.

**Rep. K. Wallman:** So even though this bill lowers the maximum sentence does anyone know if the judge can still take other criminal offenses into consideration when they are deciding how much punishment someone gets. Seems to me a judge could use their judgment if they could look into the criminal history of this person and really step back and

say there is clearly other criminal activity going on and perhaps this person does need the maximum.

**Chairman K. Koppelman:** I think that is true up to the maximum. This language in current law would have triggered it not being triggered a first offense so there would be a difference in penalty. That is the part of the bill I am most uncomfortable with.

**Rep. Lois Delmore:** There will obviously be some things that will be considered and they will be out of the loop forever.

**Rep. D. Larson:** What we are both talking about are those that are reoffending and so they are getting themselves into a lot of trouble because they are just going down that path. There are some people that break the law and then don't reoffend. This wouldn't change that for them, but if they are continuing to reoffend with other things that are related that is a concern for me.

**Roll Call Vote: 10 Yes 3 No 0 Absent Carrier: Rep. Kretschmar**

February 17, 2015

2/17/15  
SA

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1394

Page 1, line 17, overstrike "one-half"

Page 1, line 18, overstrike "ounce [14.175 grams] to"

Page 1, line 18, after the closing bracket insert "or less"

Page 1, line 19, overstrike "Any person"

Page 1, line 19, overstrike "who violates"

Page 1, overstrike line 20

Page 1, line 21, overstrike "marijuana is guilty of"

Page 1, line 23, remove "an infraction"

Page 1, line 23, overstrike the period

Page 2, line 2, remove "or any offense regarding the"

Page 2, line 3, remove "possession of one-half ounce [14.175 grams] or less"

Renumber accordingly

**2015 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL NO. HB 1394**

House JUDICIARY Committee

☐ Subcommittee ☐ Conference Committee

Amendment LC# or Description: DeLMORE Amendment #1

Recommendation: ☒ Adopt Amendment  
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☐ Rerefer to Appropriations  
Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Rep. Lois Delmore: Seconded By Rep. K. Hawken:

Representative	Yes	No	Representative	Yes	No
Chairman K. Koppelman			Rep. Pamela Anderson		
Vice Chairman Karls			Rep. Delmore		
Rep. Brabandt			Rep. K. Wallman		
Rep. Hawken					
Rep. Mary Johnson					
Rep. Klemin					
Rep. Kretschmar					
Rep. D. Larson					
Rep. Maragos					
Rep. Paur					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment: \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

**Voice vote carried.**

**2015 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL NO. HB 1394**

House JUDICIARY Committee

☐ Subcommittee ☐ Conference Committee

Amendment LC# or Description: 15-0930.0100d.02000

Recommendation: ☒ Adopt Amendment  
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☐ Rerefer to Appropriations  
Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Rep. Lois Delmore: Seconded By Rep. K. Hawken:

Representative	Yes	No	Representative	Yes	No
Chairman K. Koppelman			Rep. Pamela Anderson		
Vice Chairman Karls			Rep. Delmore		
Rep. Brabandt			Rep. K. Wallman		
Rep. Hawken					
Rep. Mary Johnson					
Rep. Klemin					
Rep. Kretschmar					
Rep. D. Larson					
Rep. Maragos					
Rep. Paur					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment: \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Voice vote carried

**2015 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1394**

House Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☐ Adopt Amendment  
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☒ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar  
Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Rep. Mary Johnson Seconded By Rep. G. Paur

Representatives	Yes	No	Representatives	Yes	No
Chairman K. Koppelman	X		Rep. Pamela Anderson	X	
Vice Chairman Karls		X	Rep. Delmore	X	
Rep. Brabandt		X	Rep. K. Wallman	X	
Rep. Hawken	X				
Rep. Mary Johnson	X				
Rep. Klemin	X				
Rep. Kretschmar	X				
Rep. D. Larson		X			
Rep. Maragos	X				
Rep. Paur	X				

Total (Yes) 10 No 3

Absent 0

Floor Assignment Rep. Kretschmar

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1394: Judiciary Committee (Rep. K. Koppelman, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1394 was placed on the Sixth order on the calendar.

Page 1, line 17, overstrike "one-half"

Page 1, line 18, overstrike "ounce [14.175 grams] to"

Page 1, line 18, after the closing bracket insert "or less"

Page 1, line 19, overstrike "Any person"

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Renumber accordingly

**2015 SENATE JUDICIARY**

**HB 1394**

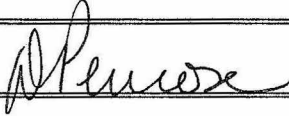
# 2015 SENATE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Fort Lincoln Room, State Capitol

HB 1394  
3/23/2015  
25250

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature



**Minutes:**

1

Ch. Hogue: We will open the hearing on HB 1394.

Rep. Lois Delmore: Sponsor, support (see attached #1).

Sen. Luick: The very last line, line 6, page 2, 5 and 6, is that even possible.

Rep. Delmore: That says when they are found guilty that if they have no subsequent offenses for two years, then that would make their case closed.

Sen. Luick: I'm asking, if the record is sealed it can't be open by a court.

Rep. Delmore: I think that's how it works now; once it's sealed it stays that way.

Sen. Armstrong: That would essentially be "deferred imposition of sentence". You can petition the court on it, without necessarily the judge having it ordered. Two years later you can petition to have it treated like a deferred sentence. Yes, then your record is closed. If you get found not guilty, it stays on your record forever, but if you get a deferred imposition it comes off your record under ND current law right now.

Sen. Grabinger: On the question of reducing it from a class A misdemeanor to a class B. That really has no significance compared to your testimony because that's not what you are looking for. They still have a conviction on their record. You're really looking at the deferred sentences.

Rep. Delmore: Exactly what I'm trying to do. Earlier I had an infraction in there and law enforcement didn't like that because they are not tracked. If you

have a second offense, this says then it really will count and you've had your chance and opportunity so that's why we went with it being misdemeanor but it's less than 30 days, a fine of \$1,500.00. We've also seen the courts do different things in different parts of the state, and I hope this will bring more uniformity to that process.

Ch. Hogue: Thank you. Further testimony in support. Testimony in opposition. Neutral testimony. We will close the hearing.

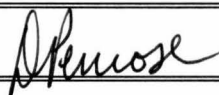
# 2015 SENATE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Fort Lincoln Room, State Capitol

HB 1394  
3/30/2015  
25595

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature



## Minutes:

Ch. Hogue: Let's take a look at HB 1394. This bill lowers the penalty for possession of marijuana by increasing the amount that you can have in your possession, from a 1/2 ounce to 1 ounce.

Sen. Armstrong: This isn't dealing with felonies, dealing with the misdemeanor disposition. Simply, all it does, under 1 ounce was a Class A misdemeanor, 1/2 ounce was a B misdemeanor before. So it makes it all Class B misdemeanors.

Ch. Hogue: What's the distinction between 1/2 oz. and an ounce? Was it previously considered that if you had 1 oz. that you were probably going to be selling some of that, because it is quantity.

Sen. Armstrong: When a prosecutor sees you got an ounce of weed, he's like that's a lot of weed. When a pothead has an ounce of weed he's says he's almost out of weed. I don't mean to trivialize that comment but that is the distinction between the two. The felonies remain the same. As the bill was introduced there were some other things involved in that. All you are doing is classifying anything under an ounce of marijuana becomes a class B misdemeanor instead of having the A misdemeanor distinction in the B misdemeanor. I think it's important to note that for the most part when it comes to these things, the distinction really comes at the felony level. The difference between an A misdemeanor and a B misdemeanor is jail time, I've never seen anybody go to jail in 10 years of criminal practice for more than 30 days for possession of marijuana. I don't know if it has occurred in other places around the state. I don't think I've seen anyone go to jail for 30 days on a misdemeanor marijuana charge. The 30 day max vs the 1 year max. There are some sealed records on the back.

Sen. Casper: On the misdemeanor side, Class B is one-half oz. and Class A is one oz. We're getting rid of the Class A misdemeanor all together for an ounce or less and raising that up and saying if you have an oz. or less you are at a Class B misdemeanor. Why don't we make it that if you have an oz. or less you have an A misdemeanor. I imagine the reason we have two is we're saying that we don't want to have someone get a Class A misdemeanor for getting a 1/2 oz. That's why we have the Class B in the first place.

Sen. Armstrong: We've also got another bill pending that reduces paraphernalia on a marijuana to a B misdemeanor and one of the most practical reasons you wouldn't do that outside of the punishment is if you left it as a Class A misdemeanor, every city cop who arrested somebody for marijuana would end up in district court. You would tilt the numbers as to what district court handles and what municipal court handles and you would have some grouchy municipal court judges because they aren't getting the fines and fees; some really grouchy district court judges because you just upped their caseload by x percentage. Municipal court cannot hear Class A misdemeanors. Every municipality, every marijuana charge would immediately move into district court, if you left it as an A misdemeanor.

Sen. Casper: Why not leave it the same, and if we're moving it to a B misdemeanor going to municipal court aren't we going to overload the municipal courts. If they're all A's, then they would all go to the district court; if they are all B's then they could all go to municipal court or district court.

Sen. Armstrong: Without the other bill passing and this bill passing, you would have a defendant having two public defenders and being in municipal court and district court. Right now under current law you end up getting a possession of marijuana charge and a paraphernalia charge and you have two cases immediately tracking in two different court systems. No, you're not going to overload the municipal court because they only deal with B misdemeanors as opposed to everything all the way to AA felonies. I like this because it just simplifies the code. Anything with intent to distribute is a felony. The weight limit is only a presumption. If you get caught with a 1/4 oz. of marijuana and a scale, baggies and other materials you are going to be charged with distribution which is going to be a felony. You have felony classification of marijuana and misdemeanor classification of marijuana and you skip all the intermediate levels in between. If the other bill passes the House (the paraphernalia bill) you really will have created a streamlined judicial process where everybody will know where it is. It is either a felony or

a misdemeanor. If it is a city cop who arrests you, it's a misdemeanor and it all goes into municipal court. If it is a felony, it goes into district court. You don't have this intermediate possession charge. The other option you have is it may alleviate some resources and one of the things you have to prove is weight. You have to prove it beyond a reasonable doubt if you are enhancing the penalty. Instead of having two different weight classifications that you have to prove as an element of the crime, you only have one, ounce and above is a felony, ounce and below is a misdemeanor.

Sen. Casper: I'm thinking of the penalties and from a practical standpoint you're saying even in an A misdemeanor situation you're not seeing the punishment getting longer and 30 days in jail. So then why give them the A misdemeanor, where you get a year in jail. You're saying a case under a B misdemeanor you can get up to 30 days and an A misdemeanor you can get up to a year. But whether it's an A or B, people are only getting up to 30 days anyway.

Sen. Armstrong: This is reducing the charge of what an amount of marijuana is. It is only reducing it in the misdemeanor realm. It is not dealing with the felony realm.

Sen. Casper: So there aren't people out there getting 6 months for an A misdemeanor.

Sen. Armstrong: No; there are some practical effects of this that come into play because you can order supervised probation on an A misdemeanor and you can order it on a B misdemeanor. It's also an interesting point in the law whereas compared to other drugs; marijuana stays in your system for system for so much longer. Violations of probation really come into play on A misdemeanor charges if there is a probationary period; whereas a drug like heroin, methamphetamine or cocaine, typically clears your system within 24-48 hours. Marijuana stays in your system for about 28 days. You have some violations going on in those cases. Marijuana, compared to other drugs, it is significantly less destructive.

Sen. Casper: Does anyone have anything from the state's attorneys on this.

Ch. Hogue: I don't. I was going to remind the committee that we have been talking about one component of the bill. The other component is that it gets rid of this distinction of operating a motor vehicle while in possession of a 1/2

oz. Why was operating a motor vehicle while in possession of marijuana, why did the legislature decide that was a more serious crime.

Sen. Armstrong: I am assuming it's because they don't have proper testing to find out whether you are under the influence. They have drug recognition experts; however, proving a DUI on drugs is significantly harder to do than proving it on alcohol. For one, we don't have any per se violation. Alcohol has a per se violation of .08 and we just assume you are impaired. Even if you exhibit very little signs of impairment if you blow a .10, we're going to charge you with a per se violation. We don't have to prove impairment. There is no per se violation for THC level in your blood. We don't say at .\_\_ whatever and milligrams of THC in your blood stream, we perceive you to be impaired. I am assuming the reason that is jacked up there is for that reason. It's interesting that we have this conversation because in practice, when you deal with this, if I had a client charged with A misdemeanor possession and we're doing it deferred imposition of sentence on the A misdemeanor or a suspended sentence or something on that nature, it's not like I'm in court fighting to get it down to a B misdemeanor. It's not like a prosecutor in a court case is really pushing to get this to an A misdemeanor level. As busy as the court systems are, these cases get disposed fairly regularly. Anyone they suspect of dealing, they are trying to get to the felony level anyway. There is a lot of frustration right now among state's attorneys and city attorneys. If you are indigent and you get charged with this crime, you almost always get two different court appointed lawyers. You have a city court appointed lawyer and a district court appointed lawyer and in a lot of jurisdictions those aren't the same people. So now you've got a state's attorney, a city attorney, a defendant, a public defender from district court and a public defender from municipal court, all dealing with a marijuana possession charge. Outside of the general policy level of where you want to put marijuana on the spectrum from a judicial efficiency standpoint, it is a nightmare. The district court judges, even if they treat marijuana seriously, they don't treat it as seriously as the rape case that is sitting on the docket right that case. They bog down a lot of resources.

Sen. Casper: Regarding the possession while driving, if we removed this section, we're not decriminalizing that are we.

Sen. Armstrong: Without looking at it, I know it would still be a B misdemeanor to possess it at any point in time.

Sen. Casper: It is just saying here, if you had a motor vehicle and had less than a 1/2 oz., the motor vehicle bumped it up from a B to an A.

Sen. Armstrong: Yes. You don't get to A misdemeanor DUI until your third offense, unless there is a minor in the vehicle.

Sen. Nelson: I'm confused about lines 13-17. I was fine up until the comma on line 16, and then it doesn't make sense after that. Is it or is it not a felony to have an ounce on school property or near school property.

Ch. Hogue: An ounce or less is not a felony. The testimony said it is a standalone sentence. I don't want those guys near my grandkids on the school property.

Sen. Luick: Wouldn't it also make a difference if they have any type of scales, etc. to sell the material that would bump it to a felony immediately no matter what.

Sen. Armstrong: All that is doing is enhancing whatever would be qualified as a C felony. So if you have 1.1 oz. of marijuana it is a C felony unless you are within 1000 feet of the school, then it's a B felony; that is only dealing with the felony designation. It doesn't have anything to do with a misdemeanor designation. Those lines, 13 through 17 just enhance every C felony drug penalty to a B felony, whatever it is, it doesn't matter what the drug is. All that sentence does is enhance it from a C to a B felony if you're within 1000 feet of a school. This bill won't change what current law is, that is current law right now.

Sen. Grabinger: We didn't receive any opposition testimony during the hearing.

Sen. Armstrong: Aaron Birst was here when the bill was heard.

Sen. Nelson: Did he testify.

Sen. Armstrong: No.

Sen. Nelson: Was Rep. Delmore the only person to testify.

Sen. Armstrong: Yes, I believe so. They amended the bill significantly from what it was when it was first introduced.

Sen. Luick: I move a Do Pass.

Sen. Armstrong: Second the motion.

**6 YES 0 NO 0 ABSENT      DO PASS      CARRIER: Sen. Armstrong**

Date: 3/30/2015  
Vote # 1

2015 SENATE STANDING COMMITTEE

*Roll Call*  
BILL/RESOLUTION NO. 1394

Senate Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☐ Adopt Amendment

☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation

☐ As Amended ☐ Rerefer to Appropriations

☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Sen. Luick Seconded By Sen. Armstrong

Senators	Yes	No	Senators	Yes	No
Ch. Hogue	✓		Sen. Grabinger	✓	
Sen. Armstrong	✓		Sen. C. Nelson	✓	
Sen. Casper	✓				
Sen. Luick	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Armstrong

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1394, as engrossed: Judiciary Committee (Sen. Hogue, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1394 was placed on the Fourteenth order on the calendar.

**2015 TESTIMONY**

**HB 1394**

# List of United States politicians who admit to cannabis use

From Wikipedia, the free encyclopedia

*Cannabis* is a drug and, as hemp, a source for fibers, oil and seed. Prior to its prohibition, U.S. politicians known for growing hemp include some of the nation's Founding Fathers and presidents. Politicians who have admitted to recreational use of the drug during prohibition include mayors, governors, members of the House of Representatives, Senators and presidents.

## Contents

- 1 List of politicians who farmed hemp
- 2 During prohibition
  - 2.1 Use by politicians during prohibition
- 3 See also
- 4 References

## List of politicians who farmed hemp

*This is an incomplete list that may never be able to satisfy particular standards for completeness. You can help by expanding it ([https://en.wikipedia.org/w/index.php?title=List\\_of\\_United\\_States\\_politicians\\_who\\_admit\\_to\\_cannabis\\_use&action=edit](https://en.wikipedia.org/w/index.php?title=List_of_United_States_politicians_who_admit_to_cannabis_use&action=edit)) with reliably sourced entries.*

Name	Lifetime	Highest position	Party	Ref.
Benjamin Franklin	1706–1790	President of the Supreme Executive Council of Pennsylvania	Independent	[1]
Thomas Jefferson	1743–1826	President of the United States	Democratic-Republican	[2]
James Madison	1751–1836	President of the United States	Democratic-Republican	[3]
George Washington	1732–1799	President of the United States	Independent	[2]

### Parties

Democratic-Republican  Whig  Democratic  Republican  Independent

## During prohibition

In the U.S., cannabis was initially grown for industrial reasons, though recreational use spread quickly during the 20th century.

Harry J. Anslinger, Commissioner of the Federal Bureau of Narcotics, responded to political pressure to ban marijuana at a nationwide level. The Marihuana Tax Act of 1937 created an expensive excise tax, and included penalty provisions and elaborate rules of enforcement to which marijuana, cannabis, or hemp handlers were subject. Mandatory sentencing and increased punishment were enacted when the United States Congress passed the Boggs Act of 1952 and the Narcotics Control Act of 1956.<sup>[4]</sup>

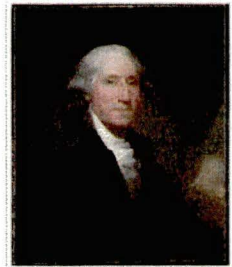
During the counterculture of the 1960s, attitudes towards marijuana and drug abuse policy changed as use became widespread among "white middle-class college students".<sup>[5]</sup> In *Leary v. United States* (1969), the Supreme Court held the Marihuana Tax Act to be unconstitutional since it violated the Fifth Amendment to the United States Constitution privilege against self-incrimination. In response, Congress passed the Controlled Substances Act as Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970, which repealed the Marihuana Tax Act.<sup>[6]</sup> In 1972, the National Commission on Marijuana and Drug Abuse concluded that marijuana should be decriminalized, but that public use and driving while intoxicated should remain illegal. By the end of the decade, several states had decriminalized the drug, while many others weakened their laws against cannabis use.

However, a wave of conservatism during the 1980s allowed president Ronald Reagan to accelerate the War on Drugs during his presidency, prompting anti-drug campaigns such as the "Just Say No" campaign of First Lady Nancy Reagan. Federal penalties for cultivation, possession, or transfer of marijuana were increased by the Comprehensive Crime Control Act (1984), the Anti-Drug Abuse Act (1986), and the Anti-Drug Abuse Amendment Act (1988).<sup>[7]</sup> Since California voters passed the Proposition 215 in 1996, which legalized medical cannabis, several states have followed suit. However, *United States v. Oakland Cannabis Buyers' Cooperative* (2001) rejected the common-law medical necessity defense to crimes enacted under the Controlled Substances Act because Congress concluded that cannabis has "no currently accepted medical use", and *Gonzales v. Raich* (2005) concluded that the Commerce Clause of the Constitution allowed the federal government to ban the use of cannabis, including medical use. Today, cannabis remains classified as a Schedule I drug under the Controlled Substances Act, and possession is punishable by up to one year in jail and a minimum fine of \$1,000 for a first conviction.<sup>[8]</sup>

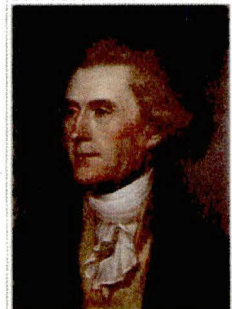
### Use by politicians during prohibition

Politicians that have admitted to recreational use during prohibition include mayors, governors, members of the House of Representatives, Senators and presidents.

*This is an incomplete list that may never be able to satisfy particular standards for completeness. You can help by expanding it ([https://en.wikipedia.org/w/index.php?title=List\\_of\\_United\\_States\\_politicians\\_who\\_admit\\_to\\_cannabis\\_use&action=edit](https://en.wikipedia.org/w/index.php?title=List_of_United_States_politicians_who_admit_to_cannabis_use&action=edit)) with reliably sourced entries.*

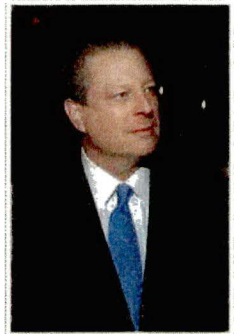


First President of the United States George Washington, one of the Founding Fathers known to have grown hemp prior to prohibition



Former President of the United States Thomas Jefferson

Name	Lifetime	Highest position	Party	Ref.
Bruce Babbitt	b. 1938	Governor of Arizona, Secretary of the Interior	Democratic	[9]
Michael Bloomberg	b. 1942	Mayor of New York City	Independent	[10]
Bill Bradley	b. 1943	Senator from New Jersey	Democratic	[11]
George W. Bush	b. 1946	President of the United States	Republican	[12]
Jeb Bush	b. 1953	Governor of Florida	Republican	[13]
Jack Conway	b. 1969	Attorney General of Kentucky	Democratic	[14]
Paul Cellucci	1948–2013	Governor of Massachusetts	Republican	[15]
Lincoln Chafee	b. 1953	Senator from Rhode Island, Governor of Rhode Island	Independent	[16]
Lawton Chiles	1930–1998	Senator from Florida, Governor of Florida	Democratic	[17]
Bill Clinton	b. 1946	President of the United States	Democratic	[18]
Steve Cohen	b. 1949	Member of the House of Representatives	Democratic	[19]
Andrew Cuomo	b. 1957	Governor of New York	Democratic	[20]
Howard Dean	b. 1948	Governor of Vermont, Chair of the Democratic National Committee	Democratic	[21]
Joseph DeNucci	b. 1939	Auditor of Massachusetts	Democratic	[15]
Mary Donohue	b. 1947	Lieutenant Governor of New York	Republican	[22]
John Edwards	b. 1953	Senator from North Carolina	Democratic	[21]
Newt Gingrich	b. 1943	Speaker of the United States House of Representatives	Republican	[9]
Al Gore	b. 1948	Vice President of the United States	Democratic	[23]
Gary Johnson	b. 1953	Governor of New Mexico	Libertarian	[24]
Joseph P. Kennedy II	b. 1952	Member of the House of Representatives	Democratic	[15]
John Kerry	b. 1943	Secretary of State	Democratic	[21]
Ed Koch	1924–2013	Member of the House of Representatives, Mayor of New York City	Democratic	[25]
Richard Lamm	b. 1935	Governor of Colorado	Democratic	[26]
Connie Mack III	b. 1940	Senator from Florida	Republican	[17]
Kyle E. McSlarrow	b. 1960	Deputy Secretary of the Department of Energy	Republican	[27]
John Miller	b. 1938	Member of the House of Representatives	Republican	[28]
Susan Molinari	b. 1958	Member of the House of Representatives	Republican	[29]
Jim Moran	b. 1945	Member of the House of Representatives	Democratic	[27]
Evelyn Murphy	b. 1940	Lieutenant Governor of Massachusetts	Democratic	[15]
Richard Neal	b. 1949	Member of the House of Representatives	Democratic	[15]
Barack Obama	b. 1961	President of the United States	Democratic	[30]
Sarah Palin	b. 1964	Governor of Alaska	Republican	[31]
George Pataki	b. 1945	Governor of New York	Republican	[20]
David Paterson	b. 1954	Governor of New York	Democratic	[32]
Edward W. Pattison	1932–1990	Member of the House of Representatives	Democratic	[33]
Claiborne Pell	1918-2009	Senator from Rhode Island	Democratic	[9]
Dana Rohrabacher	b. 1947	Member of the House of Representatives	Republican	[34]
Rick Santorum	b. 1958	Senator from Pennsylvania	Republican	[35]
Arnold Schwarzenegger	b. 1947	Governor of California	Republican	[36]
William Scranton III	b. 1947	Lieutenant Governor of Pennsylvania	Republican	[37]
Bill Thompson	b. 1953	New York City Comptroller	Democratic	[38]
Peter G. Torkildsen	b. 1958	Member of the House of Representatives	Republican	[15]
Jesse Ventura	b. 1951	Governor of Minnesota	Independent	[39]



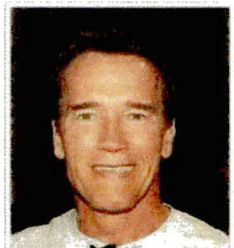
Former Vice President of the United States Al Gore



President of the United States Barack Obama



Former Governor of Alaska Sarah Palin



Former Governor of California Arnold Schwarzenegger

## Parties

■ Democratic 
 ■ Republican 
 ■ Independent 
 ■ Libertarian

## See also

- Cannabis in the United States
- Decriminalization of non-medical cannabis in the United States
- Legal history of cannabis in the United States
- List of British politicians who admit to cannabis use

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Categories: Cannabis in the United States | Lists of American politicians

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#2 2-11-15  
HB 1394

Committee members of the House Judiciary Committee,

We are sending you this e-mail as a reply to a question asked during testimony on HB 1394 that was heard on 02/11/15 at 9:30 am. The question from the Committee member was regarding the amount of marijuana in a half-ounce and ounce bag of controlled substance. We believe the question was in regard to the potential turn the loose marijuana into rolled marijuana cigarettes.

Basic Measurement: One ounce equals 28.34 grams.

Common marijuana use practices currently lend the following:

1.  $\frac{1}{2}$  grams of marijuana will go into a rolled marijuana cigarette (joint).
2. 1 gram of marijuana will produce (2) joints.

Overview:

1. One ounce of marijuana will produce approximately 57 joints
2.  $\frac{1}{2}$  ounce of marijuana will produce approximately 28 joints.

Sales:

We believe there was question as to how much marijuana is typically possessed with the intent to sell/deliver.

Many factors play into that question, the amount of possessed drug is only one. Law Enforcement also takes into consideration many other factors to include: history of the suspect, indicators of sales (scale, pay/owe records, appearance of packaging material, etc.), interviews conducted by law enforcement.

If you have any further questions regarding the amounts of marijuana related to HB 1394, please contact us immediately.

Respectfully,

Dallas Carlson  
220-7023

Lonnie Grabowska  
220-7025

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1394

HB 1394  
2-16-15  
#1

Page 1, line 17, overstrike "one-half"

Page 1, line 18, overstrike "ounce [14.175 grams] to"

Page 1, line 18, after "[28.35 grams]" insert "or less"

Page 1, line 19, overstrike "Any person"

Page 1, line 19, overstrike "who violates"

Page 1, overstrike line 20

Page 1, line 21, overstrike "marijuana is guilty of"

Page 1, line 23, remove "an infraction"

Page 1, line 23, overstrike the period

Page 2, line 2, remove "or any offense regarding the"

Page 2, line 3, remove "possession of one-half ounce [14.175 grams] or less"

RENUMBER ACCORDINGLY

15.0930.01000

Sixty-fourth  
Legislative Assembly  
of North Dakota

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House Bill 1394

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2-17-15

Introduced by

Representatives Delmore, Beadle, Hawken, K. Koppelman

Senators Armstrong, Luick, Nelson

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

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

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

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

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~~marijuana is guilty of a class B misdemeanor. Any person who violates this subsection regarding possession of less than one-half ounce [14.175 grams] of marijuana while operating a motor vehicle is guilty of a class A misdemeanor~~ an infraction.

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

Good morning, Chairman Hogue and members of the Senate Judiciary Committee-

For the record, I am Lois Delmore, and I represent District 43 which is the Southwest part of the city of Grand Forks.

I am here today to urge your favorable consideration on House Bill 1394. I drafted this bill after discussing the consequences of marijuana possession with constituents and fellow legislators. I believe a dialogue is needed to increase awareness of the often unintended consequences of possession of a small amount of marijuana.

One of my constituents wrote, "According to a 2013 Pew Research poll, 48% of Americans admit having used marijuana. Some of these former or current marijuana consumers have been able to rise to the pinnacle of their professions. Olympians, U.S. Presidents, at least one Supreme Court justice, musicians, CEO's and innovators have admitted having used marijuana. Meanwhile, for those unlucky ones who are arrested for the same conduct, dreams and potential can be derailed. A new report details how an arrest or conviction for marijuana can prevent a person from getting an education, choosing a career, or obtaining housing."

This is not a bill to legalize marijuana although we are seeing more states passing laws for medical and recreational marijuana use. This bill lowers the penalties for lesser amounts of marijuana. The sentence about schools is a stand-alone sentence and would not change. I have worked with people in law enforcement and with the attorney general's office, and amendments to the bill have been agreed to, offered, and adopted.

Politicians from both parties admit, along with just over 150 million US citizens, to using marijuana. Any of these people could easily have had a drug conviction permanently on their record for a youthful indiscretion--if they happened to indulge in the wrong place at the wrong time. A misdemeanor drug offense on your permanent record could affect professional licensure, employment

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opportunities, student aid, and choice of colleges and vocations. A conviction at 18 can follow people for over 50 years for something that is legal in several states. I do not think North Dakota is ready to legalize marijuana at this time, but it is time to remove the drug conviction stigma from offenders who possess a small amount of marijuana and a first offense.

I look forward to committee discussion and further testimony, and urge a Do Pass on House Bill 1394. Thank you for your time. I will attempt to answer any questions you may have.