

Introduced by

Representatives Klemin, Karls, Lefor, Schneider, Louser

Senators Dwyer, Larson, Sickler

1 A BILL for an Act to amend and reenact subsection 7 of section 19-03.1-23 and subsection 1 of
2 section 19-03.4-03 of the North Dakota Century Code, relating to drug crime penalties and drug
3 paraphernalia possession; and to provide a penalty.

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

5 **SECTION 1. AMENDMENT.** Subsection 7 of section 19-03.1-23 of the North Dakota
6 Century Code is amended and reenacted as follows:

- 7 7. a. It is unlawful for any person to willfully, as defined in section 12.1-02-02, possess
8 a controlled substance or a controlled substance analog unless the substance
9 was obtained directly from, or pursuant to, a valid prescription or order of a
10 practitioner while acting in the course of the practitioner's professional practice, or
11 except as otherwise authorized by this chapter, but any person who violates
12 section 12-46-24 or 12-47-21 may not be prosecuted under this subsection.
- 13 b. Except as otherwise provided in this subsection, any person who violates this
14 subsection is guilty of a class A misdemeanor for the first offense ~~under this~~
15 ~~subsection and a class C felony for a second or subsequent offense under this~~
16 ~~subsection. If a person is convicted of a second or subsequent offense not~~
17 ~~related to marijuana or tetrahydrocannabinol under this section or chapter~~
18 19-03.2, 19-03.3, or 19-03.4, or an equivalent offense from another court in the
19 United States, the violation is a class C felony.
- 20 c. If, at the time of the offense the person is in or on the real property comprising a
21 public or private elementary or secondary school or a public career and technical
22 education school, the person is guilty of a class B felony, unless the offense
23 involves marijuana or tetrahydrocannabinol.
- 24 d. A person who violates this subsection by possessing:

- 1 (1) Marijuana:
- 2 (a) In an amount of less than one-half ounce [14.175 grams] is guilty of
- 3 an infraction.
- 4 (b) At least one-half ounce [14.175 grams] but not more than 500 grams
- 5 of marijuana is guilty of a class B misdemeanor.
- 6 (c) More than 500 grams of marijuana is guilty of a class A misdemeanor.
- 7 (2) Tetrahydrocannabinol:
- 8 (a) In an amount less than two grams is guilty of an infraction.
- 9 (b) At least two grams but not more than six grams of
- 10 tetrahydrocannabinol is guilty of a class B misdemeanor.
- 11 (c) More than six grams of tetrahydrocannabinol is guilty of a class A
- 12 misdemeanor.
- 13 e. If an individual is sentenced to the legal and physical custody of the department
- 14 of corrections and rehabilitation under this subsection, the department may place
- 15 the individual in a drug and alcohol treatment program designated by the
- 16 department. Upon the successful completion of the drug and alcohol treatment
- 17 program, the department shall release the individual from imprisonment to begin
- 18 any court-ordered period of probation.
- 19 f. If the individual is not subject to any court-ordered probation, the court shall order
- 20 the individual to serve the remainder of the sentence of imprisonment on
- 21 supervised probation subject to the terms and conditions imposed by the court.
- 22 g. Probation under this subsection may include placement in another facility,
- 23 treatment program, drug court, mental health court, or veterans treatment docket.
- 24 If an individual is placed in another facility or treatment program upon release
- 25 from imprisonment, the remainder of the sentence must be considered as time
- 26 spent in custody.
- 27 h. An individual incarcerated under this subsection as a result of a second probation
- 28 revocation is not eligible for release from imprisonment upon the successful
- 29 completion of treatment.
- 30 i. A person who violates this subsection regarding possession of five or fewer
- 31 capsules, pills, or tablets of a schedule II, III, IV, or V controlled substance or

1 controlled substance analog is guilty of a class A misdemeanor. If a person is
2 convicted of a second or subsequent offense not related to marijuana or
3 tetrahydrocannabinol under this section or chapter 19-03.2, 19-03.3, or 19-03.4,
4 or an equivalent offense from another court in the United States, the violation is a
5 class C felony.

6 **SECTION 2. AMENDMENT.** Subsection 1 of section 19-03.4-03 of the North Dakota
7 Century Code is amended and reenacted as follows:

8 1. A person may not use or possess with intent to use drug paraphernalia to plant,
9 propagate, cultivate, grow, harvest, manufacture, compound, convert, produce,
10 process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled
11 substance in violation of chapter 19-03.1. A person violating this subsection is guilty of
12 a class C felony if the drug paraphernalia is used, or possessed with intent to be used,
13 to plant, propagate, manufacture, compound, convert, produce, process, prepare, test,
14 or analyze, pack, repack, store, contain, or conceal a controlled substance, other than
15 marijuana or tetrahydrocannabinol, classified in schedule I, II, or III of chapter 19-03.1.