

HOUSE BILL NO. 1050
with Conference Committee Amendments
HOUSE BILL NO. 1050

Sixty-sixth
Legislative Assembly
of North Dakota

Introduced by

Representatives Roers Jones, Satrom

Senators Unruh, Poolman, K. Roers, Myrdal

1 A BILL for an Act to amend and reenact subsection 7 of section 12.1-32-01, section
2 19-03.1-22.3, subdivision d of subsection 8 of section 19-03.1-23, section 19-03.4-03, and
3 subdivision i of subsection 5 of section 39-08-01 of the North Dakota Century Code, relating to
4 multiple convictions of the same infraction, the possession and ingestion of marijuana, the
5 possession of drug paraphernalia and the placement of an individual in a drug and alcohol
6 treatment program by the department of corrections and rehabilitation; to provide for a
7 legislative management study; and to provide a penalty.

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

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

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

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

20 **19-03.1-22.3. Ingesting a controlled substance - Venue for violation - Penalty.**

21 A

22 1. Except as provided in subsection 2, a person who intentionally ingests, inhales,
23 injects, or otherwise takes into the body a controlled substance, unless the substance
24 was obtained directly from a practitioner or pursuant to a valid prescription or order of

1 a practitioner while acting in the course of the practitioner's professional practice, is
2 guilty of a class B misdemeanor if the controlled substance is marijuana. Otherwise,
3 the offense is a class A misdemeanor. This subsection does not apply to ingesting,
4 inhaling, injecting, or otherwise taking into the body marijuana.

5 2. A person who is under twenty-one years of age and intentionally ingests, inhales,
6 injects, or otherwise takes into the body a controlled substance that is marijuana,
7 unless the substance was medical marijuana obtained in accordance with chapter
8 19-24.1, is guilty of a class B misdemeanor.

9 3. The venue for a violation of this section exists in either the jurisdiction in which the
10 controlled substance was ingested, inhaled, injected, or otherwise taken into the body
11 or the jurisdiction in which the controlled substance was detected in the body of the
12 accused.

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

- 15 d. A person who violates this subsection ~~regarding possession~~ by possessing:
16 (1) Marijuana in an amount of less than one-half ounce [14.175 grams] is guilty
17 of an infraction.
18 (2) At least one-half ounce [14.175 grams] but not more than 500 grams of
19 marijuana is guilty of a class B misdemeanor.
20 (3) More than 500 grams of marijuana is guilty of a class A misdemeanor.

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

23 **19-03.4-03. Unlawful possession of drug paraphernalia - Penalty.**

24 1. A person may not use or possess with intent to use drug paraphernalia to plant,
25 propagate, cultivate, grow, harvest, manufacture, compound, convert, produce,
26 process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled
27 substance in violation of chapter 19-03.1. ~~Any~~A person violating this subsection is
28 guilty of a class C felony if the drug paraphernalia is used, or possessed with intent to
29 be used, to manufacture, compound, convert, produce, process, prepare, test, or
30 analyze a controlled substance, other than marijuana, classified in schedule I, II, or III
31 of chapter 19-03.1.

- 1 2. A person may not use or possess with the intent to use drug paraphernalia to inject,
2 ingest, inhale, or otherwise induce into the human body a controlled substance, other
3 than marijuana, classified in schedule I, II, or III of chapter 19-03.1. A person violating
4 this subsection is guilty of a class A misdemeanor. If a person previously has been
5 convicted of an offense under this title, other than an offense related to marijuana, or
6 an equivalent offense from another court in the United States, a violation of this
7 subsection is a class C felony.
- 8 3. 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~~ marijuana in
11 violation of chapter 19-03.1. A person violating this subsection is guilty of a class A
12 misdemeanor.
- 13 4. A person may not use or possess with the intent to use drug paraphernalia to ingest,
14 inhale, or otherwise introduce into the human body marijuana or possess with the
15 intent to use drug paraphernalia to store or contain marijuana in violation of
16 chapter 19-03.1. A person violating this subsection is guilty of ~~a class B-~~
17 ~~misdemeanor~~ an infraction.
- 18 5. A person sentenced to the legal and physical custody of the department of corrections
19 and rehabilitation under this section may be placed in a drug and alcohol treatment
20 program as designated by the department. Upon the successful completion of the drug
21 and alcohol treatment program, the department shall release the person from
22 imprisonment to begin any court-ordered period of probation. If the person is not
23 subject to court-ordered probation, the court may order the person to serve the
24 remainder of the sentence of imprisonment on supervised probation subject to the
25 terms and conditions imposed by the court.
- 26 6. Probation under this section may include placement in another facility, treatment
27 program, or drug court. If the person is placed in another facility or treatment program
28 upon release from imprisonment, the remainder of the sentence must be considered
29 as time spent in custody.

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

- 1 i. If the court sentences an individual to the legal and physical custody of the
2 department of corrections and rehabilitation, the department may place the
3 individual in an alcohol treatment program designated by the department. Upon
4 the individual's successful completion of the alcohol treatment program, the
5 department shall release the individual from imprisonment to begin the
6 court-ordered period of probation. If there is not any court-ordered period of
7 probation, the court ~~shall~~may order the individual to serve the remainder of the
8 sentence of imprisonment on supervised probation and the terms and conditions
9 must include participation in the twenty-four seven sobriety program and any
10 terms and conditions of probation previously imposed by the court. Probation
11 under this subsection may include placement in another facility or treatment
12 program. If an individual is placed in another facility or treatment program after
13 release from imprisonment, the remainder of the individual's sentence of
14 imprisonment must be considered time spent in custody. Individuals incarcerated
15 under this section subsequent to a second probation revocation are not eligible
16 for release from imprisonment upon the successful completion of treatment.

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

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

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- 1 7. The medical marijuana program.
- 2 The legislative management shall report its findings and recommendations, together with
- 3 any legislation necessary to implement the recommendations, to the sixty-seventh legislative
- 4 assembly.