

HOUSE BILL NO. 1050

Introduced by

Representatives Roers Jones, Satrom

Senators Unruh, Poolman, K. Roers, Myrdal

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

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

8 **SECTION 1. AMENDMENT.** Section 19-03.1-22.3 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **19-03.1-22.3. Ingesting a controlled substance - Venue for violation - Penalty.**

11 A person who intentionally ingests, inhales, injects, or otherwise takes into the body a
12 controlled substance, unless the substance was obtained directly from a practitioner or pursuant
13 to a valid prescription or order of a practitioner while acting in the course of the practitioner's
14 professional practice, is guilty of a ~~class B misdemeanor~~ noncriminal offense punishable by a fee
15 of two hundred fifty dollars if the controlled substance is marijuana. Otherwise, the offense is a
16 class A misdemeanor. The venue for a violation of this section exists in either the jurisdiction in
17 which the controlled substance was ingested, inhaled, injected, or otherwise taken into the body
18 or the jurisdiction in which the controlled substance was detected in the body of the accused.

19 **SECTION 2. AMENDMENT.** Subdivision d of subsection 8 of section 19-03.1-23 of the
20 North Dakota Century Code is amended and reenacted as follows:

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

22 (1) Marijuana in an amount of less than one-half ounce [14.175 grams] is guilty

23 of a noncriminal offense punishable by a fee of two hundred fifty dollars.

(2) One-half ounce [14.175 grams] or more of marijuana is guilty of a class B misdemeanor.

SECTION 3. 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. ~~Any~~ A 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, 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 in violation of chapter 19-03.1. A person violating this subsection is guilty of ~~a class B misdemeanor~~ noncriminal offense punishable by a fee of one hundred dollars.
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

1 program as designated by the department. Upon the successful completion of the drug
2 and alcohol treatment program, the department shall release the person from
3 imprisonment to begin any court-ordered period of probation. If the person is not
4 subject to court-ordered probation, the court shall may order the person to serve the
5 remainder of the sentence of imprisonment on supervised probation subject to the
6 terms and conditions imposed by the court.

7 6. Probation under this section may include placement in another facility, treatment
8 program, or drug court. If the person is placed in another facility or treatment program
9 upon release from imprisonment, the remainder of the sentence must be considered
10 as time spent in custody.

11 **SECTION 4. AMENDMENT.** Subdivision i of subsection 5 of section 39-08-01 of the North
12 Dakota Century Code is amended and reenacted as follows:

13 i. If the court sentences an individual to the legal and physical custody of the
14 department of corrections and rehabilitation, the department may place the
15 individual in an alcohol treatment program designated by the department. Upon
16 the individual's successful completion of the alcohol treatment program, the
17 department shall release the individual from imprisonment to begin the
18 court-ordered period of probation. If there is not any court-ordered period of
19 probation, the court shall may order the individual to serve the remainder of the
20 sentence of imprisonment on supervised probation and the terms and conditions
21 must include participation in the twenty-four seven sobriety program and any
22 terms and conditions of probation previously imposed by the court. Probation
23 under this subsection may include placement in another facility or treatment
24 program. If an individual is placed in another facility or treatment program after
25 release from imprisonment, the remainder of the individual's sentence of
26 imprisonment must be considered time spent in custody. Individuals incarcerated
27 under this section subsequent to a second probation revocation are not eligible
28 for release from imprisonment upon the successful completion of treatment.

29 **SECTION 5. LEGISLATIVE MANAGEMENT STUDY - RECREATIONAL MARIJUANA.**

30 During the 2019-20 interim, the legislative management shall consider studying the implications
31 of the potential adoption of an initiated measure allowing the use of recreational marijuana. The

1 study must consider the potential benefits and detriments of legalizing recreational marijuana
2 with respect to:

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

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