

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/07/2019**

Amendment to: HB 1155

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

No material fiscal impact to the DOCR

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

n/a

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

n/a

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

n/a

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

n/a

**Name:** Dave Krabbenhoft

**Agency:** DOCR

**Telephone:** 701-328-6135

**Date Prepared:** 01/13/2019

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/07/2019**

Bill/Resolution No.: HB 1155

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n/a

**Name:** Dave Krabbenhoft

**Agency:** DOCR

**Telephone:** 701-328-6135

**Date Prepared:** 01/13/2019

**2017 HOUSE JUDICIARY**

**HB 1155**

# 2019 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Prairie Room, State Capitol

HB 1155  
2/6/2019  
32301

- Subcommittee  
 Conference Committee

Committee Clerk: DeLores D. Shimek

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

Relating to possession of marijuana and marijuana paraphernalia; to provide for a legislative management study; and to provide a penalty.

## **Minutes:**

1, 2

**Chairman Koppelman:** Opened the meeting on HB 1155.

**Rep. Roers Jones:** Introduced the bill. Decriminalization is not legalization. The bill makes it a \$200 fine only infraction for possessing or delivery of one ounce or less of marijuana or two or fewer plants. It would be \$100 fine only infraction for possession of marijuana paraphernalia. It would still be a crime to possess any more than one ounce or any more than two plants. We are attempting to remove the consequences of a criminal record that come along with getting caught with a small amount of marijuana that would affect a person's ability to find housing, employment or get professional licensing in the future. The counterpart to not legalizing marijuana to making sure that we are not creating new negative consequences for employers. If an employee leaves the job site during noon house; smokes marijuana and they come back to work; that would be lawful conduct that happens off the employer's premises during non-working hours. That still affects their ability to perform their job safety on our construction site. We don't want to create problems that would affect the employer's ability to enforce their ability to enforce their existing drug policy. The last part of the bill just creates a legislative management study.

**Rep. Paur:** Is there any chance we are making it illegal for somebody who has medical marijuana? On page 4 lines 20-23 it says if you possess a controlled substance it is ok if you have a prescription. I don't see that in this on what you are proposing.

**Rep. Roers Jones:** No I don't believe they would fall under the same rules. I remember the conversation about all the different genes of marijuana. There is someone from BCI will be able to answer that.

**David Owen, Chair of Legalized MD:** I am here to talk about why decriminalization is very important and imperative in our current system. As it sets possession of an amount of marijuana that would equal to this contained here or 2.1 grams would subject you to 30 days in prison and \$1500 in fines and fees. That would lead to unemployment in many cases as

most people that work hour to hour especially in our agricultural economy are unable to go out into the field and work. Would subject you to 30 days in jail. Discussed the use of marijuana and the uses that are happening today. If you have misdemeanors students cannot keep their student loans. The penalty has to match the crime. Currently it just doesn't do that.

**Roberta Moorhead, Beulah resident:** I have severe nerve damage by a man who beat me. I was put into jail for marijuana use, but he got to go free. It is hard to take care of my kids and I no longer drive due to prescriptions they give me. I have a hard time to be considered a criminal because I used a natural substance.

Opposition:

**David Bjorndahl: Narcotics investigator, Morton County Sheriff's Department:** (Attachment #1) There is less penalty for diverting marijuana. It has become a huge industry. There are a lot of strains out there. It has become a huge business. Diversion is when something is being produced and sold on a black market.

**Rep. Rick Becker:** What are your objections? One is to the number of plants? What is the concern?

**David Bjorndahl:** When the medical marijuana is grown it is grown under supervision. It is then the best it can be for human consumption. Marijuana can be \$7000/lb. Off of five pounds you can make \$15,000.

**Rep. Rick Becker:** The five pounds of marijuana is a Class C felony. Say you sell less but it is still a Class A misdemeanor which is still a year in jail.

**David Bjorndahl:** That is the maximum, but that doesn't mean a person is going to get a year in jail.

Support:

**Dustin Preyer, Real ND News:** Support this bill. Will be mailing information today to all the representatives today.

Neutral:

**Troy Seibold, Chief Deputy Attorney General:** He is supportive of decriminalizing small amounts of marijuana essentially would be reflective of what is happening day and day in our courts. In our courts they are typically sentencing them to a small fine. I think it makes sense to have our Century Code reflect what is happening in reality in the courts. Concerned about some conflicts that are on the bill. We think we can work something out.

**Chairman K. Koppelman:** If you have recommended amendments from your office we would certainly entertain those.

**Rep. Jones:** If we do this; how hard bout it be to have a regularly monitoring?

**Troy Seibold:** it would be difficult for law enforcement to come in without probable cause.

**Rep. Satrom:** Do we have data from other states that have done this?

**Troy Seibold:** There is a lot of data out there right now. This is decriminalization; versus full legalization and when you look at Colorado they have full legalization now. There have been a lot of studies done there in terms of the effects of driving under the influence and effect on crime rate etc. We would be happy to provide that information.

**Charlene Rittenbach, Forensic Scientist with the ND State Crime Lab:** (Attachment #2)  
Went over the testimony.

Hearing closed.

# 2019 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Prairie Room, State Capitol

HB 1155  
2/18/2019  
32880

- Subcommittee  
 Conference Committee

Committee Clerk: DeLores D. Shimek

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

Relating to possession of marijuana and marijuana paraphernalia; to provide for a legislative management study; and to provide a penalty.

## **Minutes:**

1

**Chairman Koppelman:** Opened the meeting on HB 1155. I have a proposed amendment. (Attachment #1) Went over the proposed amendment.

**Rep. Vetter:** Basically it changes it from a \$200 fine to infraction up to \$1000 fine.

**Rep. Roers Jones:** it is criminal charge so that takes this from being a non-criminal offense to a criminal offense. I would prefer if the committee would act on this bill not amended. This amendment total undermines what we have done as work on this bill.

**Chairman K. Koppelman:** There is another proposed amendment in the book. Rep. Heinert gave that to us before.

**Rep. Roers Jones:** With regard to the Heinert amendments; is dealing with the word delivery? The limitations on the quantity, it is saying it is not making it illegal for an ounce; that would still be a crime. It is saying you can't be charged for possession and delivery if you pass it to your roommate. You can't be charged with two crimes at once.

**Chairman K. Koppelman:** On line 10, page 8 it changes a level of grams in Section 3.

**Rep. Roers Jones:** Section 3 is just using the 500 grams as an aggravating factor; which is the proposed amendment adding that back?

**Chairman K. Koppelman:** The bill removes all penalties for marijuana with the exception of a fine. The amendment I brought would make these crimes an infraction. It removes the definition of the marijuana plant; removes possession of marijuana plants and quantities and penalties related to the possession of marijuana and adds THC to the definition of marijuana paraphernalia; removes the proposed section prohibiting an 18-year-old from delivering marijuana paraphernalia to a minor; who is three years younger.

**Motion Made to amend the bill using Attachment #1 by Rep. Satrom; Seconded by Vice Chairman Karls**

Discussion:

**Chairman K. Koppelman:** The health department has taken a long time getting the medical marijuana process going. I don't object lessening the possession of marijuana is not even an infraction. I think we are going to have some tough sledding on the floor passing it if we don't amend it.

**Rep. Roers Jones:** The discrimination has been something I have been working on several months prior to the session starting. There are a lot of ramifications that go along with changing the fine to an infraction. No one came from the Attorney General's office and testified in opposition to this bill. I think we should resist the majority of these amendments. An infraction is a criminal penalty and carries all sorts of consequences that we are hoping to avoid with the original bill. We want to decriminalize this and discussed why we should do this and the process in law with infractions and felony and their problems and difficulties with changing this bill. This totally undermines what we have done with the last legislative session and for these reasons; the revisions related to the definition; that was one thing from the BCI crime lab those would be acceptable. The revisions removing lines 26-28 paraphernalia should not be an infraction. An infraction is a criminal offense; you can be jailed for it and required to post bail for it. All of these revisions will most likely cause another initiated measure to be started and we already know the components of Measure are working on something that would fully legalize marijuana. If we change this, it will appear that the legislature as a whole are unwilling to take steps to move away making criminals out of citizens who use a small amount of marijuana. It also will result in a lot of criticism as being hypocritical. I would ask you to oppose these amendments.

**Rep. McWilliams:** If someone ingested marijuana in Colorado and come back to ND; is that a criminal action?

**Rep. Roers Jones:** It could be.

**Rep. McWilliams:** Do know of any cases like this? In current law in other states if someone has a small amount of marijuana on them for medical purposes and they do not have a medical marijuana card, that would be an infraction under the proposed amendments; right?

**Rep. Roers Jones:** Yes, which is a criminal charge up to a fine of \$1000. I think they could still be charged if they proved they had a card, if they didn't have it on their person.

**Rep. McWilliams:** What happens in other states?

**Rep. Roers Jones:** I can't speak to what happens in other states.

**Chairman K. Koppelman:** I think moving it to an infraction makes sense. Personally I am uncomfortable in legalizing it. Discussed the justice reinvestment process from last session.

**Rep. Vetter:** Looking at the amendments if we add them basically we are lowering all the crimes for a very low amount for marijuana, but we are not decimalizing it. The current bill if we are really trying to allow these people to not have a record so they can get a job.

**Chairman K. Koppelman:** Interesting as we discuss legalization and decriminalization. Most of them have fines like speeding. Eventually there is a consequence for that. Using marijuana is going to be more expensive for you, but it is not going to be illegal any more. There is no consequence for repeated violation.

**Rep. Roers Jones:** It is still illegal and it is important for employer's ability to enforce their drug testing and law enforcement to use their drug dogs. The proposed amendments would change the possession from an ounce to half an ounce of marijuana.

**Chairman K. Koppelman:** If the bill in its current form would pass anyone could use marijuana as much as they wanted to and they would just have to pay a fine when they got caught, but there would be no consequence for continued use as there is with other offenses for which we pay fines?

**Rep. Roers Jones:** There would be no points accrued. It wouldn't have a deterrent effect because you are not going to ultimately end up in jail.

**Rep. Rick Becker:** You referenced a comparison of the three; a fine, an infraction versus current law which is a Class B misdemeanor. If this amendment is adopted and becomes an infraction a reoccurrence with them be a Class B misdemeanor?

**Rep. Vetter:** When they are caught with something; aren't they caught with the paraphernalia; plus, the marijuana so if they got two infractions; aren't they stacked then? Aren't we defeating the whole purpose of what we are doing then?

**Chairman K. Koppelman:** I don't know if you can charge a person for two infractions for the same occurrence at the same time?

**Rep. Paur:** I must be missing something on this amendment; on page 1, line 13 the amendment says it is a Class A misdemeanor?

**Chairman K. Koppelman:** The original bill has not deterrent.

**Rep. Hanson:** Line 13, So we are saying on the first offense is an infraction; second offense is a Class A misdemeanor?

**Chairman K. Koppelman:** The amendment would say it is an infraction instead of a Class B misdemeanor versus current law.

**Voice Vote Failed.**

**Motion Made to amend to insert on Page 8, line 27, after "marijuana" insert "or tetrahydrocannabinols as defined in section 19-03.1-05(5)(n)," Page 8, line 27, replace "to" with "the" by Rep. Roers Jones; Seconded by Rep. Hanson**

Discussion:

**Rep. Roers Jones:** We had some neutral testimony from the BCI crime lab as far as the testing process for THC and that clarifies their testing process.

**Voice Vote Carries.**

**Do Pass as Amended by Rep. Vetter; Seconded by Rep. Roers Jones**

Discussion:

**Roll Call Vote: 9 Yes 4 No 1 Absent Carrier: Rep. Roers Jones**

Closed.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1155

Page 1, line 13, after "~~misdemeanor~~" insert "an infraction"

Page 1, line 13, remove the overstrike over ~~if the controlled substance is~~

Page 1, line 14, remove the overstrike over ~~"marijuana. Otherwise, the offense is"~~

Page 1, line 17, remove "This section does not apply to the ingestion of"

Page 1, line 18, remove "marijuana."

Page 2, line 22, replace "a noncriminal offense punishable by a fee of two hundred" with "an infraction"

Page 2, line 23, remove "dollars"

Page 5, remove line 3

Page 5, line 4, remove "genus cannabis, whether growing or harvested."

Page 5, line 6, replace "One ounce [28.35 grams]" with "One-half ounce [14 grams]"

Page 5, line 6, remove "a" and insert immediately thereafter "an infraction."

Page 5, line 7, remove "noncriminal offense punishable by a fee of two hundred"

Page 5, line 8, remove "dollars"

Page 5, line 9, replace "one ounce [28.35 grams]" with "one-half ounce [14 grams]"

Page 5, remove lines 15-19

Page 6, remove lines 21-23

Page 8, line 27, after "marijuana" insert "or Tetrahydrocannabinols, as defined in section 19-03.1-05(5)(n)."

Page 8, line 27, replace "to" with "the"

Page 9, line 21, overstrike "a" and insert immediately thereafter "an infraction"

Page 9, line 21, remove "noncriminal offense punishable by a fee"

Page 9, line 22, remove "of one hundred dollars"

Page 9, line 26, remove "Notwithstanding any other provision of law, a prior marijuana-related"

Page 9, removes lines 27-28

Page 10, line 13, overstrike "a" and insert immediately thereafter "an infraction"

Page 10, line 14, remove "noncriminal offense punishable by a fee of one hundred dollars"

Page 10, remove lines 22-25

Renumber accordingly

DE 2/18/19

19.0374.03002  
Title.04000

Adopted by the Judiciary Committee

February 18, 2019

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1155

Page 8, line 27, replace "into to" with "or tetrahydrocannabinols, as defined in section 19-03.1-05, into the"

Renumber accordingly

**2019 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 HB   1155**

House   Judiciary   Committee

Subcommittee

Amendment LC# or Description:   Attachment #1     Infraction rather than a    
  Class B misdemeanor.  

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. Satrom   Seconded By   Rep. Karls  

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman			Representative Buffalo		
Vice Chairman Karls			Representative K. R. Hanson		
Representative Becker					
Representative Terry Jones					
Representative Magrum					
Representative McWilliams					
Representative B. Paulson					
Representative Paur					
Representative Roers Jones					
Representative Satrom					
Representative Simons					
Representative Vetter					

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

Absent \_\_\_\_\_

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

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

**Voice vote failed.**

**2019 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 HB   1155**

House   Judiciary   Committee

Subcommittee

Amendment LC# or Description: **insert on Page 8, line 27, after “marijuana” insert “or tetrahydrocannabinols as defined in section 19-03.1-05(5)(n),” Page 8, line 27, replace “to” with “the”**

- 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. Roers Jones   Seconded By   Rep. Hanson  

<b>Representatives</b>	<b>Yes</b>	<b>No</b>	<b>Representatives</b>	<b>Yes</b>	<b>No</b>
Chairman Koppelman			Representative Buffalo		
Vice Chairman Karls			Representative K. R. Hanson		
Representative Becker					
Representative Terry Jones					
Representative Magrum					
Representative McWilliams					
Representative B. Paulson					
Representative Paur					
Representative Roers Jones					
Representative Satrom					
Representative Simons					
Representative Vetter					

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

Absent \_\_\_\_\_

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

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

**2019 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 HB   1155**

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. Vetter   Seconded By   Rep. Roers Jones  

<b>Representatives</b>	<b>Yes</b>	<b>No</b>	<b>Representatives</b>	<b>Yes</b>	<b>No</b>
Chairman Koppelman		X	Representative Buffalo	X	
Vice Chairman Karls		X	Representative K. R. Hanson	X	
Representative Becker	X				
Representative Terry Jones	X				
Representative Magrum	----	-----			
Representative McWilliams	X				
Representative B. Paulson	X				
Representative Paur		X			
Representative Roers Jones	X				
Representative Satrom		X			
Representative Simons	X				
Representative Vetter	X				

Total   (Yes)   9                             No   4  

Absent   1  

Floor Assignment   Rep. Roers Jones  

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

**REPORT OF STANDING COMMITTEE**

**HB 1155: Judiciary Committee (Rep. K. Koppelman, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). HB 1155 was placed on the Sixth order on the calendar.

Page 8, line 27, replace "into to" with "or tetrahydrocannabinols, as defined in section 19-03.1-05, into the"

Renumber accordingly

**2017 TESTIMONY**

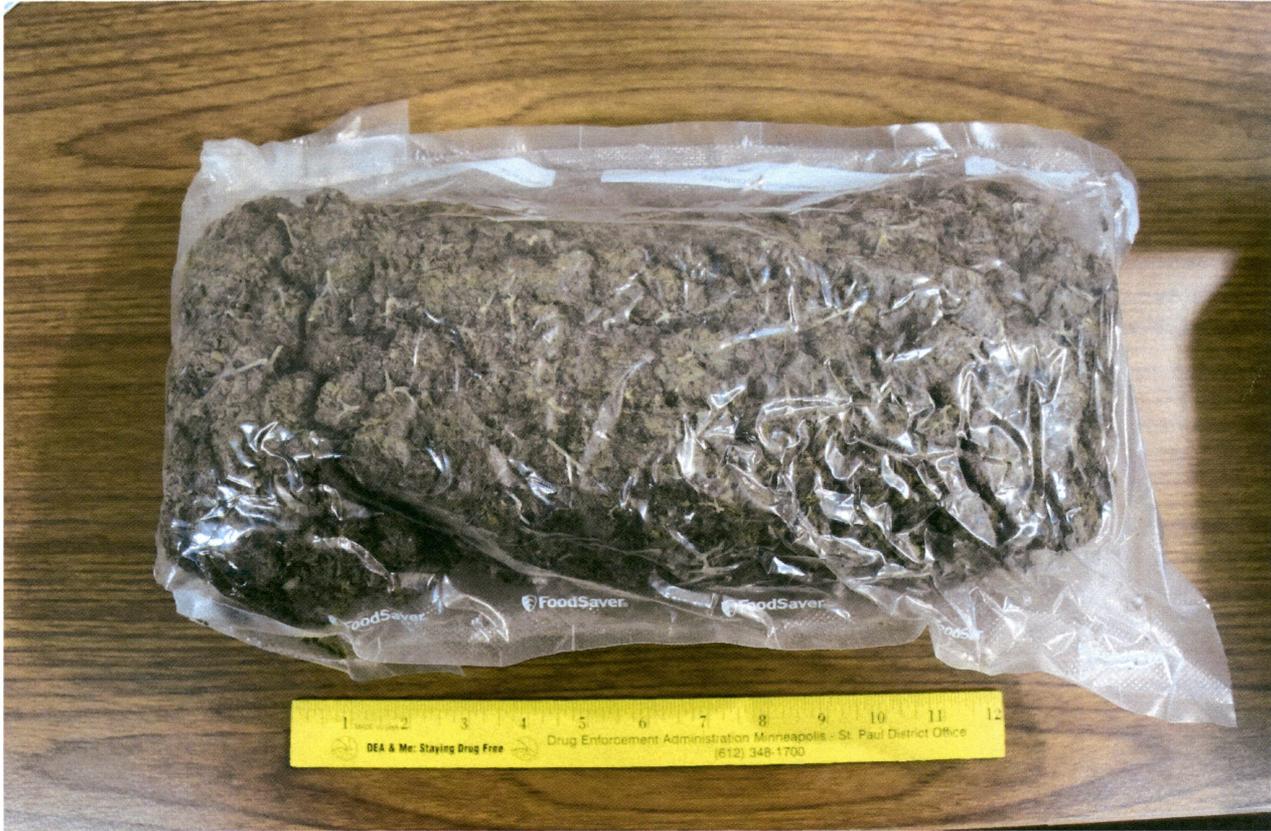
**HB 1155**



#1  
HB 11555  
2-6-19  
P. 1

ONE POUND

#1  
AB1155  
2-6-19  
P. 2



THREE OUNCES

#1  
HB1155  
2-6-19  
P.3



## HB 1155 – Technical Notes

Charlene Rittenbach

Forensic Scientist

ND Office of Attorney General Crime Laboratory

#2  
HB1155  
2-6-19  
P.1

In order for an item to be considered drug paraphernalia it must be used in conjunction with an illegal activity. Both marijuana, and its chemical component THC (Tetrahydrocannabinol) are illegal under both State and Federal law. When determining whether an item is used for an illegal activity, the crime lab analyzes it for the presence of a controlled substance, in this instance the presence of THC. The crime lab does not identify the type of marijuana product that was consumed. For example, the crime lab would not report whether a pipe was used to consume dried leaves or flowers, hash or a marijuana concentrate, it would simply indicate the pipe tested positive for the presence of delta-9 THC.

As a result, use of the term “marijuana paraphernalia” may prove to be problematic. If the intent of the language is to ensure that all products used for any purpose with regards to marijuana and THC products are no longer to be considered “drug paraphernalia” the alternative option is to indicate any item identified with the presence of THC or marijuana is not “drug paraphernalia” as used in this statute. This may need to be reflected in 19-03.4-01, which is the drug paraphernalia definition, and not currently included in this bill.

Marijuana, Tetrahydrocannabinol (THC), and Hashish are all separately specifically listed Schedule I substances in both state and federal law. HB 1155 just addresses Marijuana specifically.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1155

#1  
HB 1155  
2-18-19  
P.L.

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Page 2, line 22, replace "a noncriminal offense punishable by a fee of two hundred" with "an infraction"

Page 2, line 23, remove "dollars"

Page 5, remove line 3

Page 5, line 4, remove "genus cannabis, whether growing or harvested."

Page 5, line 6, replace "One ounce [28.35 grams]" with "One-half ounce [14 grams]"

Page 5, line 6, remove "a" and insert immediately thereafter "an infraction."

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#1  
AB 1155  
2-18-19  
P.2

Page 9, line 22, remove "of one hundred dollars"

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Page 9, removes lines 27-28

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Page 10, remove lines 22-25

Renumber accordingly