

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 and ingestion of marijuana, and the
4 placement of an individual in a drug and alcohol treatment program by the department of
5 corrections and rehabilitation; and to provide a penalty.

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

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

9 **19-03.1-22.3. Ingesting a controlled substance - Venue for violation - Penalty.**

10 ~~A~~
11 1. Except as provided in subsection 2, a person who intentionally ingests, inhales,
12 injects, or otherwise takes into the body a controlled substance, unless the substance
13 was obtained directly from a practitioner or pursuant to a valid prescription or order of
14 a practitioner while acting in the course of the practitioner's professional practice, is
15 guilty of a class B misdemeanor if the controlled substance is marijuana. Otherwise,
16 the offense is a class A misdemeanor.

17 2. A person who is under twenty-one years of age and intentionally ingests, inhales,
18 injects, or otherwise takes into the body a controlled substance that is marijuana,
19 unless the substance was medical marijuana obtained in accordance with chapter
20 19-24.1, is guilty of a class B misdemeanor.

21 3. The venue for a violation of this section exists in either the jurisdiction in which the
22 controlled substance was ingested, inhaled, injected, or otherwise taken into the body
23 or the jurisdiction in which the controlled substance was detected in the body of the
24 accused.

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

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

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

6 (2) At least one-half ounce [14.175 grams] but not more than one ounce [28.35
7 grams] of marijuana is guilty of a class B misdemeanor.

8 (3) More than one ounce [28.35 grams] but not more than one-half pound
9 [0.227 kilograms] of marijuana is guilty of a class A misdemeanor.

10 (4) More than one-half pound [0.227 kilograms] of marijuana is guilty of a
11 class C felony.

12 **SECTION 3. AMENDMENT.** Section 19-03.4-03 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **19-03.4-03. Unlawful possession of drug paraphernalia - Penalty.**

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

23 2. A person may not use or possess with the intent to use drug paraphernalia to inject,
24 ingest, inhale, or otherwise induce into the human body a controlled substance, other
25 than marijuana, classified in schedule I, II, or III of chapter 19-03.1. A person violating
26 this subsection is guilty of a class A misdemeanor. If a person previously has been
27 convicted of an offense under this title, other than an offense related to marijuana, or
28 an equivalent offense from another court in the United States, a violation of this
29 subsection is a class C felony.

30 3. A person may not use or possess with intent to use drug paraphernalia to plant,
31 propagate, cultivate, grow, harvest, manufacture, compound, convert, produce,

1 process, prepare, test, analyze, pack, repack, store, contain, or conceal marijuana in
2 violation of chapter 19-03.1. A person violating this subsection is guilty of a class A
3 misdemeanor.

4 4. A person may not use or possess with the intent to use drug paraphernalia to ingest,
5 inhale, or otherwise introduce into the human body marijuana in violation of
6 chapter 19-03.1. A person violating this subsection is guilty of ~~a class B-~~
7 ~~misdemeanor~~ an infraction.

8 5. A person sentenced to the legal and physical custody of the department of corrections
9 and rehabilitation under this section may be placed in a drug and alcohol treatment
10 program as designated by the department. Upon the successful completion of the drug
11 and alcohol treatment program, the department shall release the person from
12 imprisonment to begin any court-ordered period of probation. If the person is not
13 subject to court-ordered probation, the court shall ~~may~~ order the person to serve the
14 remainder of the sentence of imprisonment on supervised probation subject to the
15 terms and conditions imposed by the court.

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

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

22 i. If the court sentences an individual to the legal and physical custody of the
23 department of corrections and rehabilitation, the department may place the
24 individual in an alcohol treatment program designated by the department. Upon
25 the individual's successful completion of the alcohol treatment program, the
26 department shall release the individual from imprisonment to begin the
27 court-ordered period of probation. If there is not any court-ordered period of
28 probation, the court shall ~~may~~ order the individual to serve the remainder of the
29 sentence of imprisonment on supervised probation and the terms and conditions
30 must include participation in the twenty-four seven sobriety program and any
31 terms and conditions of probation previously imposed by the court. Probation

1 under this subsection may include placement in another facility or treatment
2 program. If an individual is placed in another facility or treatment program after
3 release from imprisonment, the remainder of the individual's sentence of
4 imprisonment must be considered time spent in custody. Individuals incarcerated
5 under this section subsequent to a second probation revocation are not eligible
6 for release from imprisonment upon the successful completion of treatment.