

House File 2313 - Introduced

HOUSE FILE 2313

BY HUNTER

A BILL FOR

1 An Act relating to the possession and distribution of
2 marijuana, and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 124.401, subsection 1, paragraph
2 a, subparagraph (6), Code 2014, is amended by striking the
3 subparagraph.

4 Sec. 2. Section 124.401, subsection 1, paragraph b,
5 subparagraph (6), Code 2014, is amended by striking the
6 subparagraph.

7 Sec. 3. Section 124.401, subsection 1, paragraph c,
8 subparagraph (5), Code 2014, is amended by striking the
9 subparagraph.

10 Sec. 4. Section 124.401, subsection 1, paragraph d, Code
11 2014, is amended to read as follows:

12 *d.* Violation of this subsection, with respect to any other
13 controlled substances, counterfeit substances, or simulated
14 controlled substances classified in section 124.204, subsection
15 4, paragraph "a", or section 124.204, subsection 6, paragraph
16 "i", or classified in schedule IV or V is an aggravated
17 misdemeanor. However, violation of this subsection involving
18 ~~fifty kilograms or less of marijuana or involving flunitrazepam~~
19 is a class "D" felony. A person who manufactures or delivers
20 marijuana, counterfeit marijuana, or simulated marijuana,
21 or acts with, enters into a common scheme or design with,
22 or conspires with one or more other persons to manufacture
23 or deliver marijuana, counterfeit marijuana, or simulated
24 marijuana shall be punished as provided in section 124.401G.

25 Sec. 5. Section 124.401, subsection 5, unnumbered paragraph
26 1, Code 2014, is amended to read as follows:

27 It is unlawful for any person knowingly or intentionally
28 to possess a controlled substance unless such substance was
29 obtained directly from, or pursuant to, a valid prescription
30 or order of a practitioner while acting in the course of the
31 practitioner's professional practice, or except as otherwise
32 authorized by this chapter. Any person who violates this
33 subsection is guilty of a serious misdemeanor for a first
34 offense. A person who possesses marijuana shall be punished as
35 provided in section 124.401G. A person who commits a violation

1 of this subsection and who has previously been convicted of
2 violating this chapter or chapter 124A, 124B, or 453B is guilty
3 of an aggravated misdemeanor. A person who commits a violation
4 of this subsection and has previously been convicted two or
5 more times of violating this chapter or chapter 124A, 124B, or
6 453B is guilty of a class "D" felony.

7 Sec. 6. Section 124.401, subsection 5, unnumbered paragraph
8 2, Code 2014, is amended by striking the unnumbered paragraph.

9 Sec. 7. NEW SECTION. 124.401G Marijuana.

10 1. It is unlawful for any person to knowingly or
11 intentionally possess or possess with the intent to manufacture
12 or deliver marijuana. Notwithstanding any other law to the
13 contrary, the penalties for possession of or possession with
14 the intent to manufacture or deliver marijuana shall be as
15 follows:

16 a. A violation of this subsection involving more than one
17 thousand kilograms of marijuana or a mixture or substance
18 containing a detectable amount of marijuana is a class "B"
19 felony, and notwithstanding section 902.9, subsection 1,
20 paragraph "b", shall be punished by confinement for no more than
21 fifty years and a fine of not more than one million dollars.

22 b. A violation of this subsection involving more than one
23 hundred kilograms but not more than one thousand kilograms
24 of marijuana is a class "B" felony, and in addition to the
25 provisions of section 902.9, subsection 1, paragraph "b", shall
26 be punished by a fine of not less than five thousand dollars
27 nor more than one hundred thousand dollars.

28 c. A violation of this subsection involving more than fifty
29 kilograms but not more than one hundred kilograms of marijuana
30 is a class "C" felony, and in addition to the provisions of
31 section 902.9, subsection 1, paragraph "d", shall be punished
32 by a fine of not less than one thousand dollars nor more than
33 fifty thousand dollars.

34 d. A violation involving more than one kilogram but not more
35 than fifty kilograms of marijuana is a class "D" felony.

1 e. A violation of this subsection involving at least
2 forty-two and one-half grams but not more than one kilogram of
3 marijuana is a simple misdemeanor.

4 f. (1) A violation of this subsection involving less
5 than forty-two and one-half grams of marijuana is a simple
6 misdemeanor punishable as a scheduled violation under section
7 805.8A, subsection 14, paragraph "m".

8 (2) If the violation under this paragraph "f" is within
9 one thousand feet of the real property comprising a public or
10 private elementary or secondary school, the violation is a
11 simple misdemeanor.

12 2. It is unlawful for any person to manufacture or deliver
13 marijuana, counterfeit marijuana, or simulated marijuana,
14 or to act with, enter into a common scheme or design with,
15 or conspire with one or more other persons to manufacture
16 or deliver marijuana, counterfeit marijuana, or simulated
17 marijuana. Notwithstanding any other law to the contrary,
18 the penalties for a violation of this subsection shall be as
19 follows:

20 a. A violation of this subsection involving more than one
21 thousand kilograms of marijuana or a mixture or substance
22 containing a detectable amount of marijuana is a class "B"
23 felony, and notwithstanding section 902.9, subsection 1,
24 paragraph "b", shall be punished by confinement for no more than
25 fifty years and a fine of not more than one million dollars.

26 b. A violation of this subsection involving more than one
27 hundred kilograms but not more than one thousand kilograms
28 of marijuana is a class "B" felony and in addition to the
29 provisions of section 902.9, subsection 1, paragraph "b", shall
30 be punished by a fine of not less than one thousand dollars nor
31 more than fifty thousand dollars.

32 c. A violation of this subsection involving more than fifty
33 kilograms but not more than one hundred kilograms of marijuana
34 is a class "C" felony, and in addition to the provisions of
35 section 902.9, subsection 1, paragraph "d", shall be punished

1 by a fine of not less than one thousand dollars nor more than
2 fifty thousand dollars.

3 *d.* A violation involving more than one kilogram but not more
4 than fifty kilograms of marijuana is a class "D" felony.

5 *e.* A violation of this subsection involving at least
6 forty-two and one-half grams but not more than one kilogram of
7 marijuana is a serious misdemeanor.

8 *f.* (1) A violation of this subsection involving less than
9 forty-two and one-half grams but more than twenty-eight and
10 one-half grams of marijuana is a serious misdemeanor.

11 (2) If the violation under this paragraph "*f*" involves
12 a delivery without compensation, the violation is a simple
13 misdemeanor punishable as a scheduled violation under section
14 805.8A, subsection 14, paragraph "*n*", subparagraph (1).

15 *g.* (1) A violation of this subsection involving
16 twenty-eight and one-half grams or less of marijuana is a
17 simple misdemeanor.

18 (2) If the violation under this paragraph "*g*" involves
19 a delivery without compensation, the violation is a simple
20 misdemeanor punishable as a scheduled violation under section
21 805.8A, subsection 14, paragraph "*n*", subparagraph (2).

22 Sec. 8. Section 124.407, unnumbered paragraph 3, Code 2014,
23 is amended by striking the unnumbered paragraph.

24 Sec. 9. Section 124.413, subsection 2, Code 2014, is amended
25 by striking the subsection.

26 Sec. 10. Section 805.8A, subsection 14, Code 2014, is
27 amended by adding the following new paragraphs:

28 NEW PARAGRAPH. *m.* Marijuana possession violations. For
29 violations under section 124.401G, subsection 1, paragraph "*f*",
30 subparagraph (1), the scheduled fine is three hundred dollars.

31 NEW PARAGRAPH. *n.* Marijuana manufacture or delivery
32 violations.

33 (1) For violations under section 124.401G, subsection 2,
34 paragraph "*f*", subparagraph (2), the scheduled fine is five
35 hundred dollars.

1 (2) For violations under section 124.401G, subsection 2,
2 paragraph "g", subparagraph (2), the scheduled fine is three
3 hundred dollars.

4 Sec. 11. REPEAL. Section 124.410, Code 2014, is repealed.

5 EXPLANATION

6 The inclusion of this explanation does not constitute agreement with
7 the explanation's substance by the members of the general assembly.

8 This bill relates to the criminal penalties for marijuana.

9 The bill strikes certain criminal penalties for
10 manufacturing, delivering, possessing, or possessing with
11 the intent to manufacture or deliver, marijuana, counterfeit
12 marijuana, or simulated marijuana, or to act with, enter
13 into a common scheme or design with, or conspire with one or
14 more other persons to manufacture, deliver, or possess with
15 the intent to manufacture or deliver marijuana, counterfeit
16 marijuana, or simulated marijuana.

17 The bill also repeals the accommodation offense in Code
18 section 124.410 relating to the delivery of marijuana.

19 The bill does not change the criminal penalties relating
20 to marijuana if the violation involves any of the following:
21 a violation involving more than 1,000 kilograms remains a
22 class "B" felony, punishable by confinement for no more than
23 50 years; a violation involving more than 100 kilograms but
24 not more than 1,000 kilograms remains a class "B" felony,
25 punishable by no more than 25 years of confinement; a violation
26 involving more than 50 kilograms but not more than 100
27 kilograms remains a class "C" felony; and a violation involving
28 more than one kilogram but not more than 50 kilograms remains a
29 class "D" felony.

30 The bill specifies new criminal penalties for marijuana
31 violations involving less than one kilogram of marijuana.

32 Under the bill, it is unlawful for any person to knowingly or
33 intentionally possess or possess with the intent to manufacture
34 or deliver marijuana, and if a person violates this provision
35 the person commits the following: if the violation involves at

1 least 42.5 grams but not more than one kilogram the violation
2 is a simple misdemeanor; if the violation involves less than
3 42.5 grams the violation is a simple misdemeanor punishable
4 with a scheduled fine of \$300, but if the violation is near
5 a school the penalty is a simple misdemeanor not a scheduled
6 violation.

7 Under the bill, it is unlawful for any person to manufacture
8 or deliver marijuana, counterfeit marijuana, or simulated
9 marijuana, or to act with, enter into a common scheme or design
10 with, or conspire with one or more other persons to manufacture
11 or deliver marijuana, counterfeit marijuana, or simulated
12 marijuana, and if a person violates this provision the person
13 commits the following: if the violation involves at least
14 42.5 grams but not more than one kilogram the violation is an
15 aggravated misdemeanor; if the violation involves less than
16 42.5 grams but more than 28.5 grams the violation is a serious
17 misdemeanor, but if the violation does not involve compensation
18 the violation becomes a simple misdemeanor punishable as a
19 scheduled fine in the amount of \$500; if the violation involves
20 28.5 grams or less the violation is a simple misdemeanor, but
21 if the violation does not involve compensation the violation
22 becomes a simple misdemeanor punishable as a scheduled fine in
23 the amount of \$300.