

HOUSE BILL NO. 1394

Introduced by

Representatives Delmore, Beadle, Hawken, K. Koppelman

Senators Armstrong, Luick, Nelson

1 A BILL for an Act to amend and reenact subsections 7 and 9 of section 19-03.1-23 of the North
2 Dakota Century Code, relating to marijuana possession offenses and penalties.

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

4 **SECTION 1. AMENDMENT.** Subsections 7 and 9 of section 19-03.1-23 of the North Dakota
5 Century Code are amended and reenacted as follows:

6 7. It is unlawful for any person to willfully, as defined in section 12.1-02-02, possess a
7 controlled substance or a controlled substance analog unless the substance was
8 obtained directly from, or pursuant to, a valid prescription or order of a practitioner
9 while acting in the course of the practitioner's professional practice, or except as
10 otherwise authorized by this chapter, but any person who violates section 12-46-24 or
11 12-47-21 may not be prosecuted under this subsection. Except as otherwise provided
12 in this subsection, any person who violates this subsection is guilty of a class C felony.
13 If, at the time of the offense the person is in or on, or within one thousand feet [300.48
14 meters] of the real property comprising a public or private elementary or secondary
15 school or a public career and technical education school, the person is guilty of a
16 class B felony, unless the offense involves one ounce [28.35 grams] or less of
17 marijuana. Any person who violates this subsection regarding possession of one-half
18 ounce [14.175 grams] to one ounce [28.35 grams] of marijuana is guilty of a class ~~AB~~
19 misdemeanor. Any person, ~~except a person operating a motor vehicle,~~ who violates
20 this subsection regarding possession of less than one-half ounce [14.175 grams] of
21 marijuana is guilty of a class B misdemeanor. ~~Any person who violates this subsection~~
22 ~~regarding possession of less than one-half ounce [14.175 grams] of marijuana while~~
23 ~~operating a motor vehicle is guilty of a class A misdemeanor~~ an infraction.

- 1 9. ~~When~~If a person pleads guilty or is found guilty of a first offense regarding possession
2 of one ounce [28.35 grams] or less of marijuana or any offense regarding the
3 possession of one-half ounce [14.175 grams] or less and a judgment of guilt is
4 entered, a court, upon motion, shall seal the court record of that conviction if the
5 person is not subsequently convicted within two years of a further violation of this
6 chapter ~~and has not been convicted of any other criminal offense~~. Once sealed, the
7 court record may not be opened even by order of the court.