2021 South Dakota Legislature

House Bill 1061

Introduced by: **Representative** *Fitzgerald*

1 **An Act to prohibit smoking marijuana and its derivatives in a motor vehicle and**
2   **create a penalty therefor.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1.** That a NEW SECTION be added:

5   **22-42-24. Use of marijuana in a motor vehicle as a misdemeanor.**
6   While a motor vehicle is located upon a public highway or the right-of-way of a
7 public highway, it is a Class 2 misdemeanor if any person occupying, operating, or in
8 actual physical control of a motor vehicle smokes marijuana or marijuana concentrate
9 while the vehicle is being operated. For purposes of this section, marijuana concentrate is
10 the resin extracted from any part of a marijuana plant and every compound, manufacture,
11 salt, derivative, mixture, or preparation from such resin.

12 **Section 2.** That § 34-20G-18 be AMENDED.

13   **34-20G-18. [Effective July 1, 2021] Unauthorized conduct.**
14   This chapter does not authorize any person to engage in, and does not prevent the
15 imposition of any civil, criminal, or other penalty for engaging in, the following conduct:
16   (1) Undertaking any task under the influence of cannabis, when doing so would
17 constitute negligence or professional malpractice;
18   (2) Possessing cannabis or otherwise engaging in the medical use of cannabis in
19 any correctional facility;
20   (3) Smoking cannabis or cannabis products:
21   (a) On any form of public transportation; ~~or~~
22   (b) In any public place or any place that is open to the public; or
23   (c) In violation of § 22-42-24.
24   (4) Operating, navigating, or being in actual physical control of any motor vehicle,
25 aircraft, train, or motorboat while under the influence of cannabis, except that a registered

1   qualifying patient or nonresident cardholder is not considered to be under the influence of

2   cannabis solely because of the presence of metabolites or components of cannabis that

3   appear in insufficient concentration to cause impairment.