

2021 South Dakota Legislature

House Bill 1061**AMENDMENT 1061F FOR THE INTRODUCED BILL**

1 **An Act to prohibit smoking and consuming marijuana and its derivatives in a motor**
2 **vehicle and 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--Marijuana--Motor Vehicle--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~~ Class 1 misdemeanor if any person occupying, operating,
8 or in actual physical control of a motor vehicle smokes or consumes marijuana or
9 marijuana concentrate while the vehicle is being operated.

10 ~~(1) — Smokes marijuana or marijuana concentrate;~~

11 ~~(2) — Consumes any product containing marijuana or an extract of marijuana; or~~

12 ~~(3) — Possesses any package or receptacle containing marijuana, marijuana concentrate,~~
13 ~~or a product containing marijuana or an extract of marijuana unless the seal of the~~
14 ~~original package remains unbroken.~~

15 For purposes of this section and 22-42-25, marijuana concentrate is the resin
16 extracted from any part of a marijuana plant and every compound, manufacture, salt,
17 derivative, mixture, or preparation from such resin.

18 **Section 2.** That a NEW SECTION be added:

19 **22-42-25. Possession--Marijuana--Motor Vehicle--Misdemeanor--**
20 **Exceptions.**

21 It is a Class 2 misdemeanor for any person occupying a motor vehicle located upon
22 a public highway or the right-of-way of a public highway to have a package or any
23 receptacle containing marijuana or marijuana concentrate in that person's possession
24 unless:

- 1 (1) The seal of the original package remains unbroken;
2 (2) The marijuana or marijuana concentrate is so removed from the passenger area of
3 the motor vehicle that no occupant of the motor vehicle has access to it; or
4 (3) The product containing marijuana or an extract of marijuana is obtained pursuant
5 to a valid prescription.

6 **Section 3.** That § 34-20G-18 be AMENDED.

7 **34-20G-18. [Effective July 1, 2021] Unauthorized conduct.**

8 This chapter does not authorize any person to engage in, and does not prevent the
9 imposition of any civil, criminal, or other penalty for engaging in, the following conduct:

10 (1) Undertaking any task under the influence of cannabis, when doing so would
11 constitute negligence or professional malpractice;

12 (2) Possessing cannabis or otherwise engaging in the medical use of cannabis in
13 any correctional facility;

14 (3) Smoking or consuming cannabis or cannabis products:

15 (a) On any form of public transportation; ~~or~~

16 (b) In any public place or any place that is open to the public; or

17 (c) In violation of ~~§§ 22-42-24; or 22-42-25;~~ or

18 (4) Operating, navigating, or being in actual physical control of any motor vehicle,
19 aircraft, train, or motorboat while under the influence of cannabis, except that a registered
20 qualifying patient or nonresident cardholder is not considered to be under the influence of
21 cannabis solely because of the presence of metabolites or components of cannabis that
22 appear in insufficient concentration to cause impairment.