

## 2021 South Dakota Legislature

**House Bill 1061****AMENDMENT 1061G 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. Driver--Use of 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 misdemeanor if any person ~~occupying, operating,~~ or in  
8 actual physical control of a motor vehicle smokes or consumes marijuana or marijuana  
9 concentrate while the vehicle is being operated. For purposes of this section and § 22-42-  
10 25, marijuana concentrate is the resin extracted from any part of a marijuana plant and  
11 every compound, manufacture, salt, derivative, mixture, or preparation from such resin.

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

13 **22-42-25. Passenger--Use of marijuana--Motor vehicle--Misdemeanor.**

14 While a motor vehicle is located upon a public highway or the right-of-way of a  
15 public highway, it is a Class 2 misdemeanor if any person occupying a motor vehicle  
16 smokes marijuana or marijuana concentrate while the vehicle is being operated.

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

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

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

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

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

3 ~~(3) Smoking cannabis or cannabis products:~~

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

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

6 ~~(c) In violation of § 22-42-24.~~

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