

On page 1, line 1, of the Senate Health and Human Services bill, delete " and" and insert a comma

On page 1, line 2, of the Senate Health and Human Services bill, after "program" insert ", and to remove and clarify penalties for marijuana use under certain circumstances"

On page 10, after line 4, of the Senate Health and Human Services bill, insert "

Section 10. That § 22-42-1 be AMENDED.

22-42-1. Definitions.

Terms used in this chapter mean:

- (1) "Controlled drug or substance," a drug or substance, or an immediate precursor of a drug or substance, listed in Schedules I through IV. The term includes an altered state of a drug or substance listed in Schedules I through IV absorbed into the human body;
- (2) "Counterfeit substance," a controlled drug or substance which, or the container of labeling of which, without authorization, bears the trade-mark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who manufactured, distributed, or dispensed such substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser;
- (3) "Deliver" or "delivery," the actual or constructive transfer of a controlled drug, substance, or marijuana whether or not there exists an agency relationship;
- (4) "Dispense," to deliver a controlled drug or substance to the ultimate user or human research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for such delivery, and a dispenser is one who dispenses;
- (5) "Distribute," to deliver a controlled drug, substance, or marijuana. Distribution means the delivery of a controlled drug, substance, or marijuana;
- (6) "Manufacture," the production, preparation, propagation, compounding, or processing of a controlled drug or substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis. A manufacturer includes any person who packages, repackages, or labels any container of any

controlled drug or substance, except practitioners who dispense or compound prescription orders for delivery to the ultimate user;

- (7) "Marijuana," all parts of any plant of the genus cannabis, whether growing or not, in its natural and unaltered state, except for drying or curing and crushing or crumbling. The term includes an altered state of marijuana absorbed into the human body. The term does not include fiber produced from the mature stalks of such plant, or oil or cake made from the seeds of such plant. The term does not include the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis;
- (8) "Marijuana concentrate," the resin extracted from any part of a marijuana plant and every compound, manufacture, salt, derivative, mixture, or preparation from such resin;
- (9) "Practitioner," a doctor of medicine, osteopathy, podiatry, dentistry, optometry, or veterinary medicine licensed to practice his profession, or pharmacists licensed to practice their profession; physician's assistants certified to practice their profession; government employees acting within the scope of their employment; and persons permitted by certificates issued by the Department of Health to distribute, dispense, conduct research with respect to, or administer a substance controlled by chapter 34-20B;
- ~~(9)~~(10) "Precursor" or "immediate precursor," a substance which the Department of Health has found to be and by rule designates as being a principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used, in the manufacture of a controlled drug or substance, the control of which is necessary to prevent, curtail, or limit such manufacture;
- ~~(10)~~(11) "Schedule I," "Schedule II," "Schedule III," and "Schedule IV," those schedules of drugs, substances, and immediate precursors listed in chapter 34-20B;
- ~~(11)~~(12) "Ultimate user," a person who lawfully possesses a controlled drug or substance for that person's own use or for the use of a member of that person's household or for administration to an animal owned by that person or by a member of that person's household.

"

On page 10, after line 4, of the Senate Health and Human Services bill, insert "

Section 11. That § 22-42-5 be AMENDED.

22-42-5. Unauthorized possession of controlled drug or substance as felony.

No person may knowingly possess a controlled drug or substance unless the substance was obtained directly or pursuant to a valid prescription or order from a practitioner, while acting in the course of the practitioner's professional practice or except as otherwise authorized by chapter 34-20B or § 22-42-5.2. A charge for unauthorized possession of controlled substance when absorbed into the human body as set forth in subdivision 22-42-1(1) shall only be charged under the provisions of § 22-42-5.1. A violation of this section for a substance in Schedules I or II is a Class 5 felony. A violation of this section for a substance in Schedule III and IV is a Class 6 felony.

"

On page 10, after line 4, of the Senate Health and Human Services bill, insert "

Section 12. That § 22-42-5.1 be AMENDED.

22-42-5.1. Unauthorized ingestion of controlled drug or substance as felony.

No person may knowingly ingest a controlled drug or substance or have a controlled drug or substance in an altered state in the body unless the substance was obtained directly or pursuant to a valid prescription or order from a practitioner, while acting in the course of the practitioner's professional practice or except as otherwise authorized by chapter 34-20B or § 22-42-15.2. A violation of this section for a substance in Schedules I or II is a Class 5 felony. A violation of this section for a substance in Schedules III or IV is a Class 6 felony.

"

On page 10, after line 4, of the Senate Health and Human Services bill, insert "

Section 13. That a NEW SECTION be added:

22-42-5.2. Possession of certain amount of marijuana concentrate not a criminal offense under certain circumstances.

For any person twenty-one years of age or older, it is not a violation of § 22-42-5 to possess eight grams of marijuana concentrate or less.

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On page 10, after line 4, of the Senate Health and Human Services bill, insert "

Section 14. That § 22-42-6 be AMENDED.

22-42-6. Possession of marijuana prohibited--Degrees according to amount.

~~No~~ Except as provided in § 22-42-6.1, no person may knowingly possess marijuana. It is a Class 1 misdemeanor to possess two ounces of marijuana or less. It is a Class 6 felony to possess more than two ounces of marijuana but less than one-half pound of marijuana. It is a Class 5 felony to possess one-half pound but less than one pound of marijuana. It is a Class 4 felony to possess one to ten pounds of marijuana. It is a Class 3 felony to possess more than ten pounds of marijuana. A civil penalty may be imposed, in addition to any criminal penalty, upon a conviction of a violation of this section not to exceed ten thousand dollars.

"

On page 10, after line 4, of the Senate Health and Human Services bill, insert "

Section 15. That a NEW SECTION be added:

22-42-6.1. Possession of certain amount of marijuana not a criminal offense under certain circumstances.

For any person twenty-one years of age or older, it is not a violation of § 22-42-6 to possess one ounce or less of marijuana.

"

On page 10, after line 4, of the Senate Health and Human Services bill, insert "

Section 16. That a NEW SECTION be added:

22-42-7.1. Open and public use of marijuana or marijuana concentrate--Civil penalty.

No person may openly consume or display one ounce or less of marijuana or eight grams or less of marijuana concentrate in a public place other than an area licensed for such activity under the laws of this state. The court may impose a civil penalty for a violation of this section not to exceed one hundred dollars. Any civil penalty collected pursuant to this section shall be deposited into the state general fund.

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On page 10, after line 4, of the Senate Health and Human Services bill, insert "

Section 17. That § 22-42-15 be AMENDED.

22-42-15. Ingesting substance, except alcoholic beverages, for the purpose of becoming intoxicated as misdemeanor--Venue for violation.

Any person who intentionally ingests, inhales, or otherwise takes into the body any substance, except alcoholic beverages as defined in § 35-1-1 or marijuana or any derivative of marijuana pursuant to § 22-42-15.2, for purposes of becoming intoxicated, unless such substance is prescribed by a practitioner of the medical arts lawfully practicing within the scope of the practitioner's practice, is guilty of a Class 1 misdemeanor. The venue for a violation of this section exists in either the jurisdiction in which the substance was ingested, inhaled, or otherwise taken into the body or the jurisdiction in which the substance was detected in the body of the accused.

"

On page 10, after line 4, of the Senate Health and Human Services bill, insert "

Section 18. That a NEW SECTION be added:

22-42-15.2. Ingesting marijuana or derivative of marijuana not a criminal offense under certain circumstances.

For any person twenty-one years of age or older, it is not a violation of § 22-42-5.1 or 22-42-15 to ingest marijuana. For purposes of this section, marijuana includes all parts of any plant of the genus cannabis, whether growing or not, and any derivative thereof.

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