

2023 South Dakota Legislature

Senate Bill 201**AMENDMENT 201D
FOR THE INTRODUCED BILL**

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

1 An Act to ~~exclude delta-9 tetrahydrocannabinol from felony ingestion~~
2 ~~charges provide treatment for the ingestion of controlled substances.~~

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

4 **Section 1. That § 22-42-5.1 be AMENDED:**

5 ~~22-42-5.1. No person may knowingly ingest a controlled drug or substance or~~
6 ~~have a controlled drug or substance in an altered state in the body unless the substance~~
7 ~~was obtained directly or pursuant to a valid prescription or order from a practitioner, while~~
8 ~~acting in the course of the practitioner's professional practice or except as otherwise~~
9 ~~authorized by chapter 34-20B. A violation of this section for a substance in Schedules I or~~
10 ~~II is a Class 5 felony. A violation of this section for a substance in Schedules III or IV is a~~
11 ~~Class 6 felony. A first violation of this section, or a second violation of this section within~~
12 ~~ten years of a first conviction for, or plea of guilty to, a violation of this section is a Class~~
13 ~~1 misdemeanor. A third or subsequent violation of this section within ten years of a first~~
14 ~~conviction for, or plea of guilty to, a violation of this section is a Class 6 felony.~~

15 ~~In determining whether the offense is the second, third, or subsequent violation of~~
16 ~~this section, the court may not consider any previous conviction for, or plea of guilty to, a~~
17 ~~violation of this section occurring more than ten years prior to the current violation. In~~
18 ~~calculating whether the time period provided in this section has elapsed, the court may~~
19 ~~not include any period of time during which the defendant was incarcerated.~~

20 ~~Any person convicted for a violation of this section shall undergo a court-ordered~~
21 ~~evaluation by an addiction counselor licensed or certified by the South Dakota Board of~~
22 ~~Addiction and Prevention Professionals pursuant to chapter 36-34, or a licensed or certified~~
23 ~~health care professional with specialized training in chemical dependency evaluation, to~~
24 ~~determine if the defendant is chemically dependent. The defendant shall pay the cost of~~

- 1 the evaluation. The evaluator shall provide a copy of recommendations from the
- 2 evaluation to the referring judge.

AMENDMENT