



2023 South Dakota Legislature

Senate Bill 201

SENATE HEALTH AND HUMAN SERVICES ENGROSSED

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

Introduced by: **Senator Rohl**

1 **An Act to provide treatment for the ingestion of controlled substances.**

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

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

4 **22-42-5.1.** No person may knowingly ingest a controlled drug or substance or
 5 have a controlled drug or substance in an altered state in the body unless the substance
 6 was obtained directly or pursuant to a valid prescription or order from a practitioner, while
 7 acting in the course of the practitioner's professional practice or except as otherwise
 8 authorized by chapter 34-20B. ~~A violation of this section for a substance in Schedules I or~~
 9 ~~II is a Class 5 felony. A violation of this section for a substance in Schedules III or IV is a~~
 10 ~~Class 6 felony. A first violation of this section, or a second violation of this section within~~
 11 ~~ten years of a first conviction for, or plea of guilty to, a violation of this section is a Class~~
 12 ~~1 misdemeanor. A third or subsequent violation of this section within ten years of a first~~
 13 ~~conviction for, or plea of guilty to, a violation of this section is a Class 6 felony.~~

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

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