

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

400P0236

SENATE ENGROSSED NO. **HB 1061** - 2/26/2008

Introduced by: The Committee on Judiciary at the request of the Office of the Attorney General

1 FOR AN ACT ENTITLED, An Act to revise the penalty for the distribution or possession with  
2 intent to distribute marijuana to a minor.

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

4 Section 1. That § 22-42-7 be amended to read as follows:

5 22-42-7. The distribution, or possession with intent to distribute, of less than one-half ounce  
6 of marijuana without consideration is a Class 1 misdemeanor; otherwise, the distribution, or  
7 possession with intent to distribute, of one ounce or less of marijuana is a Class 6 felony. The  
8 distribution, or possession with intent to distribute, of more than one ounce but less than  
9 one-half pound of marijuana is a Class 5 felony. The distribution, or possession with intent to  
10 distribute, of one-half pound but less than one pound of marijuana is a Class 4 felony. The  
11 distribution, or possession with intent to distribute, of one pound or more of marijuana is a Class  
12 3 felony. ~~However, the distribution of any amount of marijuana to a minor is a Class 4 felony.~~  
13 The distribution, or possession with intent to distribute, of less than one-half ounce of marijuana  
14 to a minor without consideration is a Class 6 felony; otherwise, the distribution, or possession  
15 with intent to distribute, of one ounce or less of marijuana to a minor is a Class 5 felony. The



1 distribution, or possession with intent to distribute, of more than one ounce but less than one-  
2 half pound of marijuana to a minor is a Class 4 felony. The distribution, or possession with  
3 intent to distribute, of one-half pound but less than one pound of marijuana to a minor is a Class  
4 3 felony. The distribution, or possession with intent to distribute, of one pound or more of  
5 marijuana to a minor is a Class 2 felony. A first conviction of a felony under this section shall  
6 be punished by a mandatory sentence in the state penitentiary or county jail of at least thirty  
7 days, which sentence may not be suspended. A second or subsequent conviction of a felony  
8 under this section shall be punished by a mandatory sentence of at least one year. Conviction  
9 of a Class 1 misdemeanor under this section shall be punished by a mandatory sentence in  
10 county jail of not less than fifteen days, which sentence may not be suspended. A civil penalty,  
11 not to exceed ten thousand dollars, may be imposed, in addition to any criminal penalty, upon  
12 a conviction of a felony violation of this section.