

AN ACT

ENTITLED, An Act to increase the penalties for drug distribution and storage and for possession of drugs and drug paraphernalia.

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

Section 1. That § 22-42-5 be amended to read as follows:

22-42-5. 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. A violation of this section is a Class 4 felony.

Section 2. That § 22-42-6 be amended to read as follows:

22-42-6. 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.

Section 3. That § 22-42-7 be amended to read as follows:

22-42-7. The distribution of less than one-half ounce of marijuana without consideration is a Class 1 misdemeanor; otherwise, the distribution of one ounce or less of marijuana is a Class 6 felony. The distribution of more than one ounce but less than one-half pound of marijuana is a Class 5 felony. The distribution of one-half pound but less than one pound of marijuana is a Class 4 felony. The distribution of one pound or more of marijuana is a Class 3 felony. However, the distribution of any amount of marijuana to a minor is a Class 4 felony. A first conviction of a felony under this section shall be punished by a mandatory sentence in the state penitentiary or county jail of at least thirty

days, which sentence may not be suspended. A second or subsequent conviction of a felony under this section shall be punished by a mandatory sentence of at least one year. Conviction of a Class 1 misdemeanor under this section shall be punished by a mandatory sentence in county jail of not less than fifteen days, which sentence may not be suspended. A civil penalty may be imposed, in addition to any criminal penalty, upon a conviction of a felony violation of this section not to exceed ten thousand dollars.

Section 4. That § 22-42-8 be amended to read as follows:

22-42-8. Any person who knowingly obtains possession of a controlled drug or substance by theft, misrepresentation, forgery, fraud, deception, or subterfuge is guilty of a Class 4 felony.

Section 5. That § 22-42-16 be amended to read as follows:

22-42-16. No person may deliver or possess with intent to deliver or knowingly manufacture any noncontrolled substance which the person represents to be a substance controlled under the provisions of this chapter. Any person who violates this section is guilty of a Class 6 felony.

Section 6. That § 22-42A-3 be amended to read as follows:

22-42A-3. No person, knowing the drug related nature of the object, may use or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body any controlled substance or marijuana in violation of this chapter. Any person who violates any provision of this section is guilty of a Class 2 misdemeanor.

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

22-42A-4. No person, knowing the drug related nature of the object, may deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack,

repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance or marijuana in violation of this chapter. Any person who violates any provision of this section is guilty of a Class 6 felony.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1197

Chief Clerk

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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1197
File No. _____
Chapter No. _____

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Received at this Executive Office this ____ day of _____ ,

19__ at ____ M.

By _____
for the Governor

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The attached Act is hereby approved this _____ day of _____ , A.D., 19__

Governor

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STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____ , 19__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State