

2021 South Dakota Legislature

House Bill 1061**AMENDMENT 1061B FOR THE INTRODUCED BILL**

1 **An Act to prohibit smoking and consuming marijuana and its derivatives in a motor**
2 **vehicle and create a penalty therefor.**

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

4 **Section 1.** That a NEW SECTION be added:

5 **22-42-24. Use of marijuana in a motor vehicle as a misdemeanor.**

6 While a motor vehicle is located upon a public highway or the right-of-way of a
7 public highway, it is a ~~Class 2~~ Class 1 misdemeanor if any person occupying, operating,
8 or in actual physical control of a motor vehicle ~~smokes marijuana or marijuana concentrate~~
9 ~~while the vehicle is being operated.~~ :

10 (1) ~~Smokes marijuana or marijuana concentrate;~~

11 (2) ~~Consumes any product containing marijuana or an extract of marijuana; or~~

12 (3) ~~Possesses any package or receptacle containing marijuana, marijuana concentrate,~~
13 ~~or a product containing marijuana or an extract of marijuana unless the seal of the~~
14 ~~original package remains unbroken.~~

15 For purposes of this section, marijuana concentrate is the resin extracted from any
16 part of a marijuana plant and every compound, manufacture, salt, derivative, mixture, or
17 preparation from such resin.

18 **Section 2.** That § 34-20G-18 be AMENDED.

19 **34-20G-18. [Effective July 1, 2021] Unauthorized conduct.**

20 This chapter does not authorize any person to engage in, and does not prevent the
21 imposition of any civil, criminal, or other penalty for engaging in, the following conduct:

22 (1) Undertaking any task under the influence of cannabis, when doing so would
23 constitute negligence or professional malpractice;

1 (2) Possessing cannabis or otherwise engaging in the medical use of cannabis in
2 any correctional facility;

3 (3) Smoking or consuming cannabis or cannabis products:

4 (a) On any form of public transportation; ~~or~~

5 (b) In any public place or any place that is open to the public; or

6 (c) In violation of § 22-42-24; or

7 (4) Operating, navigating, or being in actual physical control of any motor vehicle,
8 aircraft, train, or motorboat while under the influence of cannabis, except that a registered
9 qualifying patient or nonresident cardholder is not considered to be under the influence of
10 cannabis solely because of the presence of metabolites or components of cannabis that
11 appear in insufficient concentration to cause impairment.