



2020 South Dakota Legislature

Senate Bill 115

Introduced by: **Senator Kennedy**

1 **An Act to revise the penalty for the ingestion of certain 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. Unauthorized ingestion of controlled drug or substance--**
 5 **Sentencing--Violation as misdemeanor or felony.**

6 No person may knowingly ingest a controlled drug or substance or have a controlled
 7 drug or substance in an altered state in the body unless the substance was obtained
 8 directly by or pursuant to a valid prescription or order from a practitioner, ~~while~~ acting in
 9 the course of ~~the~~ that practitioner's professional practice or except as otherwise authorized
 10 by chapter 34-20B. A violation of ~~this section for a substance in Schedules I or II is a Class~~
 11 ~~5 felony. A violation of this section for a substance in Schedules III or IV is a Class 6 felony~~
 12 this section is a Class 1 misdemeanor. In addition, the court may impose under § 23A-27-
 13 53 a probationary period of up to two years for a violation of this section.

14 If a conviction for a violation of this section is a second offense, the person is guilty
 15 of a Class 1 misdemeanor and the court shall sentence the person to at least ten days in
 16 jail.

17 If a conviction for a violation of this section is a third offense within ten years of
 18 the first conviction, the person is guilty of a Class 6 felony.