

STATE OF SOUTH DAKOTA



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**RECEIVED**  
SEP 03 2021  
S.D. SEC. OF STATE

**JASON R. RAVNSBORG**  
ATTORNEY GENERAL

**CHARLES D. McGUIGAN**  
CHIEF DEPUTY ATTORNEY GENERAL

September 3, 2021

Honorable Steve Barnett  
Secretary of State  
500 E. Capitol  
Pierre, SD 57501

RE: Attorney General's Statement – initiated measure making possession of a controlled substance a class 1 misdemeanor

Dear Secretary Barnett,

Enclosed is a copy of a proposed initiated measure, in final form, that the sponsor submitted to this Office. In accordance with state law, I hereby file the enclosed Attorney General's Statement for this initiated measure.

By copy of this letter, I am providing a copy of the Statement to the sponsors.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Jason R. Ravensborg".

Jason R. Ravensborg  
ATTORNEY GENERAL

JRR/dd  
Enc.

Cc/encl: Payton Behrend

Filed this 3<sup>rd</sup> day of  
September, 2021  
*Steve Barnett*  
SECRETARY OF STATE

**Title:** An initiated measure making the unauthorized ingestion of a controlled drug or substance a petty offense

**Explanation:**

Under state law, controlled drugs or substances are those placed on one of four schedules by the Legislature. The established schedules can be found in chapter 34-20B of state law. These controlled drugs and substances include those that have no medical use, some potential for abuse or dependency, or are only available by prescription.

State law currently prohibits the ingestion of a controlled drug or substance unless the person has a valid prescription for the substance ingested. The maximum penalty for the unlawful ingestion of a Schedule I or II controlled drug or substance is 5 years in prison and a \$10,000 fine. The maximum penalty for the unlawful ingestion of a Schedule III or IV controlled drug or substance is 2 years in prison and a \$4,000 fine.

This measure re-classifies the unlawful ingestion of all controlled drugs or substances, regardless of schedule, as a petty offense. Petty offenses are civil proceedings under state law. For a petty offense, a judgment of \$25 may be imposed. No time in jail may be imposed for a petty offense.

Filed this 3<sup>rd</sup> day of  
September, 2021  
*Steve Barnett*  
SECRETARY OF STATE

BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

That § 22-42-5.1 be AMENDED to read:

No person may knowingly ingest a controlled drug or substance or have a controlled drug or substance in an altered state in the body 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 ~~for a substance in Schedules I or II is a Class 5 felony~~ A violation of this section ~~for a substance in Schedules III or IV is a Class 6 felony~~ petty offense.