

STATE OF SOUTH DAKOTA



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ATTORNEY GENERAL

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

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 ingestion of a controlled substance a petty offense

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 that reads "Jason R. Ravensborg".

Jason R. Ravensborg
ATTORNEY GENERAL

JRR/dd
Enc.

Cc/encl: Payton Behrend

Filed this 3rd day of
September 2021
A handwritten signature in black ink that reads "Steve Barnett".
SECRETARY OF STATE

Title: An initiated measure making the unauthorized possession of a controlled drug or substance a misdemeanor 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.

Currently, state law classifies the unauthorized possession of a controlled drug or substance as a felony offense. The penalty depends upon the specific schedule on which the possessed drug or substance is listed. The current maximum penalty for the unauthorized possession of a Schedule I or II controlled drug or substance is 5 years in prison and a \$10,000 fine. The current maximum penalty for the unauthorized possession 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 unauthorized possession of all controlled drugs or substances, regardless of schedule, as a class 1 misdemeanor offense. The current maximum penalty for a Class 1 misdemeanor is 1 year in jail and a \$2,000 fine.

Filed this 3rd day of

September 2021

Steve Barnett

SECRETARY OF STATE

BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

That § 22-42-5 be AMENDED to read:

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 charge for unauthorized possession of controlled substance when absorbed into the human body as set forth in subdivision 22-42-1(1) shall only be charged under the provisions of § 22-42-5.1. 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 Schedule III and IV is a Class 6 felony~~ Class 1 misdemeanor.