

**Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015**

HOUSE BILL NO. 1394
(Representatives Delmore, Beadle, Hawken, K. Koppelman)
(Senators Armstrong, Luick, Nelson)

AN ACT to amend and reenact subsections 7 and 9 of section 19-03.1-23 of the North Dakota Century Code, relating to marijuana possession offenses and penalties.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 7 and 9 of section 19-03.1-23 of the North Dakota Century Code are amended and reenacted as follows:

7. It is unlawful for any person to willfully, as defined in section 12.1-02-02, possess a controlled substance or a controlled substance analog unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by this chapter, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. Except as otherwise provided in this subsection, any person who violates this subsection is guilty of a class C felony. If, at the time of the offense the person is in or on, or within one thousand feet [300.48 meters] of the real property comprising a public or private elementary or secondary school or a public career and technical education school, the person is guilty of a class B felony, unless the offense involves one ounce [28.35 grams] or less of marijuana. Any person who violates this subsection regarding possession of ~~one-half ounce [14.175 grams] to one ounce [28.35 grams] or less~~ of marijuana is guilty of a class ~~B~~ A misdemeanor. ~~Any person, except a person operating a motor vehicle, who violates this subsection regarding possession of less than one-half ounce [14.175 grams] of marijuana is guilty of a class B misdemeanor. Any person who violates this subsection regarding possession of less than one-half ounce [14.175 grams] of marijuana while operating a motor vehicle is guilty of a class A misdemeanor.~~

9. ~~When~~If a person pleads guilty or is found guilty of a first offense regarding possession of one ounce [28.35 grams] or less of marijuana and a judgment of guilt is entered, a court, upon motion, shall seal the court record of that conviction if the person is not subsequently convicted within two years of a further violation of this chapter ~~and has not been convicted of any other criminal offense.~~ Once sealed, the court record may not be opened even by order of the court.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-fourth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1394.

House Vote: Yeas 69 Nays 21 Absent 4

Senate Vote: Yeas 46 Nays 0 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2015.

Approved at _____ M. on _____, 2015.

Governor

Filed in this office this _____ day of _____, 2015,

at _____ o'clock _____ M.

Secretary of State