



2021 South Dakota Legislature

Senate Bill 143

Introduced by: **Senator Rohl**

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 and probation--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 or pursuant to a valid prescription or order from a practitioner, while acting in the
 9 course of the practitioner's professional practice or except as otherwise authorized by
 10 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 is a Class 1 misdemeanor. In addition, the court may impose under § 23A-27-53 a
 13 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 or a period of probation that the court deems best. As a condition of probation, the
 17 court shall include that the defendant complete a drug and alcohol evaluation and
 18 complete any recommended course of treatment. The court may impose other terms and
 19 conditions of probation as it deems best.

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