

HOUSE BILL NO. HB0234

Marihuana reform.

Sponsored by: Representative(s) Lindholm, Barlow, Loucks,
Olsen, Pelkey and Zwonitzer and Senator(s)
Baldwin, Case, Pappas, Rothfuss and Von
Flatern

A BILL

for

1 AN ACT relating to controlled substances; amending provisions
2 relating to marihuana offenses and penalties; providing a
3 definition; providing for retroactive effect as specified;
4 and providing for an effective date.

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

7

8 **Section 1.** W.S. 35-7-1064 is created to read:

9

10 **35-7-1064. Petition to amend conviction where felony**
11 **amended to misdemeanor; credit of time served.**

12

13 (a) For felony convictions under this act entered prior
14 to July 1, 2019 involving marihuana, tetrahydrocannabinol,

1 marihuana product or counterfeits of marihuana,
2 tetrahydrocannabinol or marihuana product:

3

4 (i) If the offender has completed incarceration or
5 probation or any combination thereof equal to or greater than
6 the maximum sentence provided in W.S. 35-7-1031(e), the
7 offender shall be released from the remainder of the sentence
8 as though he had been sentenced under W.S. 35-7-1031(e);

9

10 (ii) Nothing in this subsection shall reduce other
11 sentences the offender is serving; and

12

13 (iii) Nothing in this subsection shall entitle any
14 offender convicted prior to July 1, 2019 to credit or
15 reparation for punishment completed in excess of the maximums
16 provided by W.S. 35-7-1031(e).

17

18 (b) Any person convicted under this act of a felony
19 prior to July 1, 2019 involving marihuana,
20 tetrahydrocannabinol, marihuana product or counterfeits of
21 marihuana, tetrahydrocannabinol or marihuana product who
22 would have been guilty of a misdemeanor under W.S.
23 35-7-1031(e) may petition the court that entered the judgment

1 of conviction and sentence to amend the felony conviction to
2 a misdemeanor conviction.

3

4 (c) If an applicant satisfies the criteria in
5 subsection (b) of this section, the court shall enter an
6 amended judgment designating the felony conviction as a
7 misdemeanor. No hearing shall be required prior to granting
8 a petition under this subsection. A court denying a petition
9 under this subsection shall state the reasons for denial in
10 a written order that may be appealed by the petitioner.

11

12 (d) Upon the granting of a petition under subsections
13 (b) and (c) of this section, all civil rights that were lost
14 as a result of a felony conviction under this act entered
15 prior to July 1, 2019 involving marihuana,
16 tetrahydrocannabinol, marihuana product or counterfeits of
17 marihuana, tetrahydrocannabinol or marihuana product shall be
18 restored.

19

20 **Section 2.** W.S. 35-7-1002(a) by creating a new
21 paragraph (xxviii) and by amending and renumbering (xxviii)
22 as (xxix), 35-7-1031(a)(ii), (b)(ii), (c)(i)(intro), (iii)

1 and by creating new subsections (e) and (f) and 35-7-1038(c)
2 are amended to read:

3

4 **35-7-1002. Definitions.**

5

6 (a) As used in this act:

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8 (xxviii) "Marihuana product" means a preparation,
9 compound, mixture or substance not in plant form that contains
10 marihuana or tetrahydrocannabinols intended for ingestion or
11 other use without further preparation including, but not
12 limited to, baked goods, candies, edibles, ointments, potable
13 liquids, tinctures or any other similar form containing
14 marihuana or tetrahydrocannabinols;

15

16 (xxviii)(xxix) "This act" means W.S. 35-7-1001
17 through ~~35-7-1063~~35-7-1064.

18

19 **35-7-1031. Unlawful manufacture or delivery;**
20 **counterfeit substance; unlawful possession.**

21

22 (a) Except as authorized by this act, it is unlawful
23 for any person to manufacture, deliver, or possess with intent

1 to manufacture or deliver, a controlled substance. Any person
2 who violates this subsection with respect to:

3

4 (ii) Any other controlled substance classified in
5 Schedule I, II or III, except marihuana, tetrahydrocannabinol
6 or marihuana product, is guilty of a crime and upon conviction
7 may be imprisoned for not more than ten (10) years, fined not
8 more than ten thousand dollars (\$10,000.00), or both;

9

10 (b) Except as authorized by this act, it is unlawful
11 for any person to create, deliver, or possess with intent to
12 deliver, a counterfeit substance. Any person who violates
13 this subsection with respect to:

14

15 (ii) Any other counterfeit substance classified in
16 Schedule I, II or III, except counterfeit marihuana,
17 tetrahydrocannabinol or marihuana product, is guilty of a
18 crime and upon conviction may be imprisoned for not more than
19 ten (10) years, fined not more than ten thousand dollars
20 (\$10,000.00), or both;

21

22 (c) It is unlawful for any person knowingly or
23 intentionally to possess a controlled substance unless the

1 substance was obtained directly from, or pursuant to a valid
2 prescription or order of a practitioner while acting in the
3 course of his professional practice, or except as otherwise
4 authorized by this act. With the exception of any drug that
5 has received final approval from the United States food and
6 drug administration, including dronabinol as listed in W.S.
7 35-7-1018(h), and notwithstanding any other provision of this
8 act, no practitioner shall dispense or prescribe marihuana,
9 tetrahydrocannabinol, or synthetic equivalents of marihuana
10 or tetrahydrocannabinol. No prescription or practitioner's
11 order for marihuana, tetrahydrocannabinol, or synthetic
12 equivalents of marihuana or tetrahydrocannabinol shall be
13 valid, unless the prescription is for a drug that has received
14 final approval from the United States food and drug
15 administration, including dronabinol. Any person who violates
16 this subsection:

17

18 (i) And has in his possession a controlled
19 substance, except marihuana, tetrahydrocannabinol or
20 marihuana product, in the amount set forth in this paragraph
21 is guilty of a misdemeanor punishable by imprisonment for not
22 more than twelve (12) months, a fine of not more than one
23 thousand dollars (\$1,000.00), or both. Any person convicted

1 for a third or subsequent offense under this paragraph,
2 including convictions for violations of similar laws in other
3 jurisdictions, shall be imprisoned for a term not more than
4 five (5) years, fined not more than five thousand dollars
5 (\$5,000.00), or both. For purposes of this paragraph, the
6 amounts of a controlled substance are as follows:

7

8 (iii) And has in his possession any other
9 controlled substance classified in Schedule I, II or III,
10 except marihuana, tetrahydrocannabinol or marihuana product,
11 in an amount greater than set forth in paragraph (c)(i) of
12 this section, is guilty of a felony punishable by imprisonment
13 for not more than five (5) years, a fine of not more than ten
14 thousand dollars (\$10,000.00), or both;

15

16 (e) Except as authorized by this act, it is unlawful
17 for any person to knowingly or intentionally manufacture,
18 deliver, possess with intent to manufacture or deliver
19 marihuana, tetrahydrocannabinol or marihuana product, or
20 counterfeits of marihuana, tetrahydrocannabinol or marihuana
21 product. Any person who violates this subsection is guilty
22 of a misdemeanor punishable by imprisonment for not more than

1 twelve (12) months, a fine of not more than one thousand
2 dollars (\$1,000.00), or both.

3
4 (f) Except as authorized by this act, it is unlawful
5 for any person to knowingly or intentionally possess
6 marihuana, tetrahydrocannabinol or marihuana product. Any
7 person who violates this subsection is guilty of a misdemeanor
8 punishable by imprisonment for not more than six (6) months,
9 a fine of not more than seven hundred fifty dollars (\$750.00),
10 or both.

11
12 **35-7-1038. Second or subsequent offenses; mandatory**
13 **minimum penalty for certain subsequent offenses.**

14
15 (c) This section shall not apply to offenses under W.S.
16 35-7-1031(c), (e) or (f).

17
18 **Section 3.** This act is effective July 1, 2019.

19
20 (END)