

Subject Modifying marijuana offenses and providing for expungement

Authors Gomez and others

Analyst Ben Johnson (ben.johnson@house.mn)

Date March 23, 2022

Overview

Under Minnesota law, a person who possesses 42.5 grams or less of marijuana in its leaf or flower form commits the petty misdemeanor offense of possessing a small amount of marijuana. If the person possesses more than that amount of marijuana in its leaf or flower form, marijuana in another form, or a mixture containing tetrahydrocannabinol (THC), the person is guilty of a felony. The level of felony depends on the amount the person possesses. In most cases, the weight of fluid in a water pipe may not be included in determining the weight, but it can be considered if the mixture contains four or more fluid ounces of fluid.

This bill makes changes to the marijuana laws including adding some forms of nonflower marijuana in the definition of “small amount,” creating a new gross misdemeanor offense for certain first-time offenders, providing for expungement for certain convictions, and providing for restoration of the right to possess firearms following an expungement.

Summary

Section	Description
1	Mixture. Makes a conforming change to remove a reference to the definition of “small amount.”
2	Marijuana flower. Creates a new definition of “marijuana flower” that means the flower, leaves, stems, seeds, or plant form of marijuana.
3	Nonflower marijuana. Creates a new definition of “nonflower marijuana” that means the resinous form of marijuana.

Section	Description
4	<p>Small amount.</p> <p>Amends the definition of “small amount” in relation to marijuana to include nonflower marijuana mixtures that weigh eight grams or less and prohibits combining the weight of nonflower marijuana to determine the weight of flower marijuana.</p>
5	<p>Drug paraphernalia.</p> <p>Specifies that the permitted uses of controlled substance includes the permitted uses of marijuana.</p>
6	<p>Possession crimes.</p> <p>Provides that the weight of fluid used in a water pipe may not be considered in measuring the weight of a marijuana mixture and makes a conforming change to clarify that existing law permitting the weight of water to be considered in determining the weight of other mixtures when the mixture contains four or more fluid ounces is unchanged.</p>
7	<p>Possession crimes.</p> <p>Provides that the weight of fluid used in a water pipe may not be considered in measuring the weight of a marijuana mixture and makes a conforming change to clarify that existing law permitting the weight of water to be considered in determining the weight of other mixtures when the mixture contains four or more fluid ounces is unchanged.</p>
8	<p>Possession crimes.</p> <p>Provides that the weight of fluid used in a water pipe may not be considered in measuring the weight of a marijuana mixture and makes a conforming change to clarify that existing law permitting the weight of water to be considered in determining the weight of other mixtures when the mixture contains four or more fluid ounces is unchanged.</p>
9	<p>Penalty.</p> <p>Amends the penalty provision for a first-time offender convicted of possession of a controlled substance in the fifth degree to establish a gross misdemeanor penalty for a first-time offender who possesses between 42.5 grams and 85 grams of leaf marijuana, or between eight grams and 16 grams of any nonflower marijuana mixture.</p>

Section	Description
10	Possession or sale of small amounts of marijuana. Removes the provisions that require a person sentenced to a petty misdemeanor for possession of a small amount of marijuana to participate in a drug education program.
11	Notice of drug convictions; driver's license revocation. Removes a conviction for possessing or giving away a small amount of marijuana from the list of convictions that trigger a driver's license revocation.
12	Prohibited acts; penalties. Amends the prohibition on conspiring to commit a controlled substance offense to apply to only felony offenses.
13	Expungement of certain marijuana offenses. Amends the provision providing for expungement of certain marijuana offenses adopted when Minnesota's laws changed in the 1970s to provide that a person convicted of fifth degree possession of a controlled substance before August 1, 2022, can petition for expungement based on the change in law effective August 1, 2022. Requires restoration of the right to possess firearms to an individual whose conviction is expunged.
14	Criminal affirmative defense. Establishes an affirmative defense to charges of fifth degree possession of marijuana and possession of a small amount of marijuana for patients enrolled in the registry program ("medical marijuana program").
15	Court order; findings, remedies, treatment. Amends the available dispositions for a child found to be delinquent by removing an adjudication for possessing or giving away a small amount of marijuana from the list of adjudications that trigger a driver's license revocation.
16	Certain convicted felons ineligible to possess firearms. Makes a conforming change related to the restoration of an individual's right to possess firearms under the new retroactive expungement provisions.
17	Violation and penalty. Makes a conforming change related to the restoration of an individual's right to possess firearms under the new retroactive expungement provisions.

Section	Description
18	<p>Certain petty misdemeanor controlled substance.</p> <p>Requires the record of petty misdemeanor violations of the law prohibiting possession of a small amount of marijuana to be sealed following an automatic expungement.</p>
19	<p>No petition required for certain petty misdemeanor controlled substance violations after one-year waiting period.</p> <p>Requires courts to issue orders sealing judicial and administration records related to a charge involving possession of a small amount of marijuana. Directs the court to take action immediately following a dismissal or one year after a conviction provided the person pays any required fines and fees, and completes any required drug education program.</p>
20	<p>Appropriation; State Patrol.</p> <p>Appropriates \$168,000 from the trunk highway fund to the Department of Public Safety for staff costs of handling record expungements. Adds to the State Patrol budget base.</p>



**MN HOUSE
RESEARCH**

Minnesota House Research Department provides nonpartisan legislative, legal, and information services to the Minnesota House of Representatives. This document can be made available in alternative formats.

www.house.mn/hrd | 651-296-6753 | 155 State Office Building | St. Paul, MN 55155