

STATE OF SOUTH DAKOTA



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September 3, 2021

Honorable Steve Barnett
Secretary of State
500 E. Capitol
Pierre, SD 57501

RE: Attorney General's Statement – initiated measure making possession of a controlled substance a class 1 misdemeanor

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 black ink, appearing to read "Jason R. Ravensborg".

Jason R. Ravensborg
ATTORNEY GENERAL

JRR/dd

Enc.

Cc/encl: Payton Behrend

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.