

SECOND REGULAR SESSION

# HOUSE BILL NO. 2338

98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE LAFAVER.

5975H.011

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal sections 195.202, 579.015, 579.055, and 579.105, RSMo, and to enact in lieu thereof five new sections relating to marijuana, with penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 195.202, 579.015, 579.055, and 579.105, RSMo, are repealed and  
2 five new sections enacted in lieu thereof, to be known as sections 195.202, 195.208, 579.015,  
3 579.055, and 579.105, to read as follows:

195.202. 1. Except as authorized by sections 195.005 to 195.425, it is unlawful for any  
2 person to possess or have under his **or her** control a controlled substance.

3 2. Any person who violates this section with respect to any controlled substance except  
4 thirty-five grams or less of [marijuana or] any synthetic cannabinoid **or four hundred fifty-four**  
5 **grams or less of marijuana, as provided in section 195.208**, is guilty of a class C felony.

6 3. Any person who violates this section with respect to not more than thirty-five grams  
7 of [marijuana or] any synthetic cannabinoid is guilty of a class A misdemeanor.

**195.208. Notwithstanding any provision of this chapter, chapter 579, or any other**  
2 **rule or law, it shall not be unlawful for any person twenty-one years of age or older to**  
3 **possess or have under his or her control four hundred fifty-four grams or less of**  
4 **marijuana, or nine or less marijuana plants; provided that, such possession or control is**  
5 **not within two thousand feet of the real property comprising of a public or private**  
6 **elementary, vocational, or secondary school.**

579.015. 1. A person commits the offense of possession of a controlled substance if he  
2 or she knowingly possesses a controlled substance, except as authorized by this chapter or  
3 chapter 195.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

4           2. The offense of possession of any controlled substance except thirty-five grams or less  
5 of [marijuana or] any synthetic cannabinoid **or four hundred fifty-four grams or less of**  
6 **marijuana, as provided in section 195.208**, is a class D felony.

7           3. The offense of possession of more than ten grams but less than thirty-six grams of  
8 [marijuana or] any synthetic cannabinoid is a class A misdemeanor.

9           4. The offense of possession of not more than ten grams of [marijuana or] any synthetic  
10 cannabinoid is a class D misdemeanor. If the defendant has previously been found guilty of any  
11 offense of the laws related to controlled substances of this state, or of the United States, or any  
12 state, territory, or district, the offense is a class A misdemeanor. Prior findings of guilt shall be  
13 pleaded and proven in the same manner as required by section 558.021.

14           5. In any complaint, information, or indictment, and in any action or proceeding brought  
15 for the enforcement of any provision of this chapter or chapter 195, it shall not be necessary to  
16 include any exception, excuse, proviso, or exemption contained in this chapter or chapter 195,  
17 and the burden of proof of any such exception, excuse, proviso or exemption shall be upon the  
18 defendant.

579.055. 1. A person commits the offense of manufacture of a controlled substance if,  
2 except as authorized in this chapter or chapter 195, he or she:

3           (1) Knowingly manufactures, produces, or grows a controlled substance, **except four**  
4 **hundred fifty-four grams or less of marijuana or nine marijuana plants as provided under**  
5 **section 195.208;**

6           (2) Attempts to manufacture, produce, or grow a controlled substance, **except four**  
7 **hundred fifty-four grams or less of marijuana or nine marijuana plants as provided under**  
8 **section 195.208;** or

9           (3) Knowingly possesses a controlled substance with the intent to manufacture, produce,  
10 or grow any amount of controlled substance, **except four hundred fifty-four grams or less of**  
11 **marijuana or nine marijuana plants as provided under section 195.208.**

12           2. The offense of manufacturing or attempting to manufacture any amount of controlled  
13 substance is a class B felony when committed within two thousand feet of the real property  
14 comprising a public or private elementary, vocational, or secondary school, community college,  
15 college, or university. It is a class A felony if a person has suffered serious physical injury or has  
16 died as a result of a fire or explosion started in an attempt by the defendant to produce  
17 methamphetamine.

18           3. The offense of manufacturing or attempting to manufacture any amount of a controlled  
19 substance, except thirty-five grams or less of [marijuana or] synthetic cannabinoid **or four**  
20 **hundred fifty-four grams or less of marijuana, as provided in section 195.208**, is a class C  
21 felony.

22           4. The offense of manufacturing thirty-five grams or less of [marijuana or] synthetic  
23 cannabinoid is a class E felony.

          579.105. 1. A person commits the offense of keeping or maintaining a public nuisance  
2 if he or she knowingly keeps or maintains:

3           (1) Any room, building, structure or inhabitable structure, as defined in section 556.061,  
4 which is used for the illegal manufacture, distribution, storage, or sale of any amount of a  
5 controlled substance, except [thirty-five] **four hundred fifty-four** grams or less of marijuana,  
6 **as provided in section 195.208**, or thirty-five grams or less of any synthetic cannabinoid; or

7           (2) Any room, building, structure or inhabitable structure, as defined in section 556.061,  
8 where on three or more separate occasions within the period of a year, two or more persons, who  
9 were not residents of the room, building, structure, or inhabitable structure, gathered for the  
10 principal purpose of unlawfully ingesting, injecting, inhaling or using any amount of a controlled  
11 substance, except [thirty-five] **four hundred fifty-four** grams or less of marijuana, **as provided**  
12 **in section 195.208**, or thirty-five grams or less of any synthetic cannabinoid.

13           2. In addition to any other criminal prosecutions, the prosecuting attorney or circuit  
14 attorney may by information or indictment charge the owner or the occupant, or both the owner  
15 and the occupant of the room, building, structure, or inhabitable structure with the offense of  
16 keeping or maintaining a public nuisance.

17           3. The offense of keeping or maintaining a public nuisance is a class E felony.

18           4. Upon the conviction of the owner pursuant to this section, the room, building,  
19 structure, or inhabitable structure is subject to the provisions of sections 513.600 to 513.645.

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