

## HOUSE BILL No. 2049

By Committee on Corrections and Juvenile Justice

1-20

1 AN ACT concerning crimes, punishment and criminal procedure; relating  
2 to possession of controlled substances; amending K.S.A. 2014 Supp.  
3 21-5706 and repealing the existing section.

4  
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2014 Supp. 21-5706 is hereby amended to read as  
7 follows: 21-5706. (a) It shall be unlawful for any person to possess any  
8 opiates, opium or narcotic drugs, or any stimulant designated in ~~subsection~~  
9 ~~(d)(1), (d)(3) or (f)(1) of K.S.A. 65-4107(d)(1), (d)(3) or (f)(1),~~ and  
10 amendments thereto, or a controlled substance analog thereof.

11 (b) It shall be unlawful for any person to possess any of the following  
12 controlled substances or controlled substance analogs thereof:

13 (1) Any depressant designated in ~~subsection (e) of K.S.A. 65-4105(e),~~  
14 ~~subsection (e) of K.S.A. 65-4107(e), subsection (b) or (c) of K.S.A. 65-~~  
15 ~~4109(b) or (c) or subsection (b) of K.S.A. 65-4111(b),~~ and amendments  
16 thereto;

17 (2) any stimulant designated in ~~subsection (f) of K.S.A. 65-4105(f),~~  
18 ~~subsection (d)(2), (d)(4), (d)(5) or (f)(2) of K.S.A. 65-4107(d)(2), (d)(4),~~  
19 ~~(d)(5) or (f)(2) or subsection (e) of K.S.A. 65-4109(e),~~ and amendments  
20 thereto;

21 (3) any hallucinogenic drug designated in ~~subsection (d) of K.S.A.~~  
22 ~~65-4105(d), subsection (g) of K.S.A. 65-4107(g) or subsection (g) of~~  
23 ~~K.S.A. 65-4109(g),~~ and amendments thereto;

24 (4) any substance designated in ~~subsection (g) of K.S.A. 65-4105(g)~~  
25 ~~and subsection (e), (d), (e), (f) or (g) of K.S.A. 65-4111(c), (d), (e), (f) or~~  
26 ~~(g),~~ and amendments thereto;

27 (5) any anabolic steroids as defined in ~~subsection (f) of K.S.A. 65-~~  
28 ~~4109(f),~~ and amendments thereto;

29 (6) any substance designated in K.S.A. 65-4113, and amendments  
30 thereto; or

31 (7) any substance designated in ~~subsection (h) of K.S.A. 65-4105(h),~~  
32 and amendments thereto.

33 (c) (1) Violation of subsection (a) is a drug severity level 5 felony;  
34 and

35 (2) *except as provided in subsection (c)(3):*

36 (A) Violation of subsection (b) is a class A nonperson misdemeanor,

1 except as provided in subsection (c)(2)(B); and

2 (B) violation of subsection (b)(1) through (b)(5) or (b)(7) is a drug  
3 severity level 5 felony if that person has a prior conviction under such  
4 subsection, under K.S.A. 65-4162, prior to its repeal, under a substantially  
5 similar offense from another jurisdiction, or under any city ordinance or  
6 county resolution for a substantially similar offense if the substance  
7 involved was 3, 4-methylenedioxyamphetamine (MDMA), ~~marijuana~~  
8 *marihuana* as designated in ~~subsection (d) of~~ K.S.A. 65-4105(d), and  
9 amendments thereto, or any substance designated in ~~subsection (h) of~~  
10 K.S.A. 65-4105(h), and amendments thereto, or an analog thereof;

11 (3) *if the substance involved is marihuana, as designated in K.S.A.*  
12 *65-4105(d)(16), and amendments thereto, violation of subsection (b):*

13 (A) *Is a class B nonperson misdemeanor, except as provided in (c)(3)*  
14 *(B) and (c)(3)(C);*

15 (B) *is a class A nonperson misdemeanor if that person has a prior*  
16 *conviction under such subsection, under K.S.A. 65-4162, prior to its*  
17 *repeal, under a substantially similar offense from another jurisdiction, or*  
18 *under any city ordinance or county resolution for a substantially similar*  
19 *offense; or*

20 (C) *is a drug severity level 5 felony if that person has two or more*  
21 *prior convictions under such subsection, under K.S.A. 65-4162, prior to its*  
22 *repeal, under a substantially similar offense from another jurisdiction, or*  
23 *under any city ordinance or county resolution for a substantially similar*  
24 *offense.*

25 (d) It shall not be a defense to charges arising under this section that  
26 the defendant was acting in an agency relationship on behalf of any other  
27 party in a transaction involving a controlled substance or controlled  
28 substance analog.

29 Sec. 2. K.S.A. 2014 Supp. 21-5706 is hereby repealed.

30 Sec. 3. This act shall take effect and be in force from and after its  
31 publication in the statute book.