

HOUSE SUBSTITUTE TO SENATE BILL 502

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to
2 controlled substances, so as to include in Code Section 16-13-2, relating to conditional
3 discharge for possession of controlled substances as first offense, persons who are addicted
4 to a controlled substance or alcohol and persons who commit nonviolent property crimes
5 related to their addiction to a controlled substance or alcohol; to provide that a discharge and
6 dismissal under this provision shall be without a court adjudication of guilt; to change
7 certain provisions relating to transactions in drug related objects; to authorize use of certain
8 forfeiture proceeds for a state law enforcement museum; to change certain provisions relating
9 to the definition of dangerous drug; to provide for exceptions; to provide an effective date;
10 to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Code Section 16-13-2 of the Official Code of Georgia Annotated, relating to conditional
14 discharge for possession of controlled substances as first offense, is amended by adding a
15 new subsection (c) to read as follows:

16 "(c) Persons charged with an offense enumerated in subsection (a) of this Code section and
17 persons charged for the first time with nonviolent property crimes which, in the judgment
18 of the court exercising jurisdiction over such offenses, were related to the accused's
19 addiction to a controlled substance or alcohol who are eligible for any court approved drug
20 treatment program may, in the discretion of the court and with the consent of the accused,
21 be sentenced in accordance with subsection (a) of this Code section. The probated sentence
22 imposed may be for a period of up to five years. No discharge and dismissal without court
23 adjudication of guilt shall be entered under this subsection until the accused has made full
24 restitution to all victims of the charged offenses. Discharge and dismissal under this Code
25 section shall be without court adjudication of guilt and shall not be deemed a conviction
26 for purposes of this Code section or for purposes of disqualifications or disabilities imposed
27 by law upon conviction of a crime. Discharge and dismissal under this Code section may

not be used to disqualify a person in any application for employment or appointment to office in either the public or private sector."

SECTION 2.

Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to controlled substances, is amended in Code Section 16-13-32, relating to transactions in drug related objects, by striking subsection (c) in its entirety and inserting in lieu thereof the following:

"(c) It shall be unlawful for any person or corporation, other than a licensed pharmacist, a pharmacy intern or pharmacy extern as defined in Code Section 26-4-5, or a practitioner licensed to dispense ~~Legend Drugs~~ dangerous drugs, to sell, lend, rent, lease, give, exchange, or otherwise distribute to any person a hypodermic syringe or needle designed or marketed primarily for human use. It shall be an affirmative defense that the hypodermic syringe or needle was marketed for a legitimate medical purpose."

SECTION 3.

Said chapter is further amended in Code Section 16-13-49, relating to forfeitures of property relative to controlled substances violations, by striking division (u)(4)(D)(i) and inserting in lieu thereof the following:

"(D)(i) Property and money distributed to a local government shall be passed through to the local law enforcement agency until the sum equals 33 1/3 percent of the amount of local funds appropriated or otherwise made available to such agency for the fiscal year in which such funds are distributed. Proceeds received may be used for any official law enforcement purpose except for the payment of salaries or rewards to law enforcement personnel, at the discretion of the chief officer of the local law enforcement agency, or may be used to fund victim-witness assistance programs or a state law enforcement museum. Such property shall not be used to supplant any other local, state, or federal funds appropriated for staff or operations."

SECTION 4.

Said chapter is further amended in Code Section 16-13-71, relating to the definition of dangerous drug, by striking paragraphs (509.1), (573), (641.1), (663.5), (931.9), and (931.85) of subsection (b) and inserting in lieu thereof the following:

"(509.1) Ketoconazole; — See exceptions;"

"(573) ~~Methachloine~~ Methacholine;"

"(641.1) ~~Nicotin~~ Nicotine resin complex (polacrilex) — See exceptions;"

"(663.5) Omeprazole — See exceptions;"

"~~(931.9)~~(931.85) Terazosin;

~~(931.85)~~(931.9) Tenofovir;".

SECTION 5.

Said Code section is further amended in subsection (b) by inserting new paragraphs to read as follows:

"(.035) Abarelix;"
"(19.65) Alfuzosin;"
"(62.4) Aprepitant;"
"(63.5) Aripiprazole;"
"(67.72) Atazanavir;"
"(105.3) Bortezomib;"
"(192.7) Cilostazol;"
"(240.3) Daptomycin;"
"(331.072) Emtricitabine;"
"(332.2) Enfuvirtide;"
"(332.9) Epinastine;"
"(334.4) Eplerenone;"
"(348.722) Escitalopram;"
"(380.7) Ezetimibe;"
"(383.15) Ferric Hexacyanoferrate;"
"(406.3) Fosamprenavir;"
"(412.04) Gefitinib;"
"(412.2) Gemifloxacin;"
"(463.03) Ibandronate;"
"(553.5) Memantine;"
"(617.22) Midubosathol;"
"(617.44) Miglustat;"
"(644.72) Nitazoxanide;"
"(666.4) Oxaliplatin;"
"(681.5) Palonosetron;"
"(692.52) Pegvisomant;"
"(845.8) Rosuvastatin;"
"(1025.5) Vardenafil;".

SECTION 6.

Said Code section is further amended in subsection (c) by inserting a new paragraph to read as follows:

1 "(16.9) Omeprazole — when a single dosage unit is 20.6 mg. or less;".

2 **SECTION 7.**

3 Said Code section is further amended in subsection (c) by striking paragraph (28.5) and
4 inserting in lieu thereof the following:

5 "(28.5) Triprolidine — when a single dose is 5 mg. or less when combined in the same
6 preparation as one or more other drug products for use as an antihistamine or
7 decongestant or an ~~antihistamine~~ antihistamine and decongestant;".

8 **SECTION 8.**

9 This Act shall become effective upon its approval by the Governor or upon its becoming law
10 without such approval.

11 **SECTION 9.**

12 All laws and parts of laws in conflict with this Act are repealed.