

Senate Bill 254

By: Senators Jones II of the 22nd, Fort of the 39th, Orrock of the 36th, Rhett of the 33rd,  
Sims of the 12th and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 16-13-2 of the Official Code of Georgia Annotated, relating to  
2 possession of marijuana and conditional discharge for possession of controlled substances  
3 as first offense and certain nonviolent property crimes, so as to provide that simple  
4 possession of marijuana constitutes a misdemeanor; to amend Titles 15 and 16 and Code  
5 Sections 17-7-72 and 36-32-6 of the Official Code of Georgia Annotated, relating to courts,  
6 crimes and offenses, jurisdiction of probate courts to try certain drug and alcohol offenses,  
7 and municipal court jurisdiction in marijuana possession cases, respectively, so as to provide  
8 for conforming cross-references; to provide for related matters; to repeal conflicting laws;  
9 and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 PART I  
12 SECTION 1-1.

13 Code Section 16-13-2 of the Official Code of Georgia Annotated, relating to possession of  
14 marijuana and conditional discharge for possession of controlled substances as first offense  
15 and certain nonviolent property crimes, is amended by revising subsection (b) as follows:  
16 "~~(b) Notwithstanding any law to the contrary, any~~ Except as otherwise provided in  
17 subsection (c) of Code Section 16-13-31, any person who is charged with possession of  
18 marijuana, which possession is of one ounce or less, shall be guilty of a misdemeanor and  
19 punished by imprisonment for a period not to exceed 12 months or a fine not to exceed  
20 \$1,000.00, or both, or public works not to exceed 12 months."

21

## PART II

22

**SECTION 2-1.**

23 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising  
24 subsection (b) of Code Section 15-7-4, relating to state court jurisdiction, as follows:

25 "(b) Each state court shall have jurisdiction, within the territorial limits of the county or  
26 counties for which it was created and concurrent with other courts having such jurisdiction,  
27 over possession of ~~one ounce or less of~~ marijuana, in accordance with Code Sections  
28 Section 16-13-2 and 16-13-30."

29

**SECTION 2-2.**

30 Said title is further amended by revising paragraph (1) of subsection (a) of Code Section  
31 15-9-30.6, relating to probate court jurisdiction over certain drug and alcohol offenses, as  
32 follows:

33 "(1) Possession of ~~one ounce or less of~~ marijuana, in accordance with Code Sections  
34 Section 16-13-2 and 16-13-30; and"

35

**SECTION 2-3.**

36 Said title is further amended by revising subsection (a) and paragraph (1) of subsection (c)  
37 of Code Section 15-10-260, relating to magistrate court jurisdiction, as follows:

38 "(a) This article governs trials of misdemeanor violations of Code Sections ~~16-13-30;~~  
39 16-13-2, 16-8-14, 16-8-14.1, 3-3-23, and 16-7-21."

40 "(1) For possession of ~~less than one ounce of~~ marijuana, as provided in subsection (b) of  
41 Code Section 16-13-2;"

42

**SECTION 2-4.**

43 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is  
44 amended by revising paragraph (4) of subsection (b) of Code Section 16-11-106, relating to  
45 possession of a firearm or knife during the commission or attempt to commit certain crimes,  
46 as follows:

47 "(4) Any crime involving the possession, manufacture, delivery, distribution, dispensing,  
48 administering, selling, or possession with intent to distribute any controlled substance or  
49 marijuana as provided in Code Section Sections 16-13-2 and 16-13-30, any counterfeit  
50 substance as defined in Code Section 16-13-21, or any noncontrolled substance as  
51 provided in Code Section 16-13-30.1; or"

52 **SECTION 2-5.**

53 Said title is further amended by revising subparagraph (a)(2)(B) of Code Section 16-13-5,  
54 relating to immunity from arrest or prosecution for persons seeking medical assistance for  
55 a drug overdose, as follows:

56 "(B) A violation of ~~paragraph (1) of subsection (j) (b)~~ of Code Section ~~16-13-30~~  
57 16-13-2 for possession of ~~less than one ounce of~~ marijuana; or"

58 **SECTION 2-6.**

59 Said title is further amended by revising paragraph (1) of subsection (j) of Code Section  
60 16-13-30, relating to purchase, possession, manufacture, distribution, or sale of controlled  
61 substances or marijuana, as follows:

62 "(j)(1) It shall be unlawful for any person to ~~possess, have under his or her control,~~  
63 manufacture, deliver, distribute, dispense, administer, purchase, sell, or possess with  
64 intent to distribute marijuana."

65 **SECTION 2-7.**

66 Code Section 17-7-72 of the Official Code of Georgia Annotated, relating to jurisdiction of  
67 probate courts to try certain drug and alcohol offenses, as follows:

68 "17-7-72.

69 In probate courts which have jurisdiction over misdemeanor possession of marijuana in  
70 accordance with Code Sections Section 16-13-2 ~~and 16-13-30~~ and certain misdemeanor  
71 violations of Code Section 3-3-23 pursuant to Code Section 15-9-30.6, the following  
72 offenses may be tried upon a summons or citation without an accusation:

73 (1) Possession of ~~one ounce or less of~~ marijuana, in accordance with Code Sections  
74 Section 16-13-2 ~~and 16-13-30~~; and

75 (2) Any violation of paragraph (2) of subsection (a) of Code Section 3-3-23 which is  
76 punishable as a misdemeanor, but not violations punishable as high and aggravated  
77 misdemeanors."

78 **SECTION 2-8.**

79 Code Section 36-32-6 of the Official Code of Georgia Annotated, relating to municipal court  
80 jurisdiction in marijuana possession cases, is amended by revising subsections (a) and (c) as  
81 follows:

82 "(a) The municipal court of any municipality is granted jurisdiction to try and dispose of  
83 cases where a person is charged with the misdemeanor possession of ~~one ounce or less of~~  
84 marijuana if the offense occurred within the corporate limits of such municipality. The

85 jurisdiction of any such court shall be concurrent with the jurisdiction of any other courts  
86 within the county having jurisdiction to try and dispose of such cases."

87 "(c) Any defendant charged with possession of ~~an ounce or less~~ of marijuana in a  
88 municipal court shall be entitled on request to have the case against him or her transferred  
89 to the court having general misdemeanor jurisdiction in the county wherein the alleged  
90 offense occurred."

91 **PART III**  
92 **SECTION 3-1.**

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