

House Bill 865

By: Representatives Paris of the 142nd, Trammell of the 132nd, Thomas of the 39th, Mitchell of the 88th, Jackson of the 64th, and others

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 provide that possession of certain quantities of marijuana
3 constitute a misdemeanor; to change provisions relating to punishment; to amend Title 15,
4 Title 16, Chapter 7 of Title 17, and Code Section 36-32-6 of the Official Code of Georgia
5 Annotated, relating to courts, crimes and offenses, pretrial proceedings, and municipal court
6 jurisdiction in marijuana possession cases, respectively, so as to provide for conforming
7 cross-references; to provide for related matters; to repeal conflicting laws; and for other
8 purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I

SECTION 1-1.

12 Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to controlled
13 substances, is amended by revising subsection (b) of Code Section 16-13-2, relating to
14 possession of marijuana and conditional discharge for possession of controlled substances
15 as first offense and certain nonviolent property crimes, as follows:

16 ~~"(b) Notwithstanding any law to the contrary, any person who is charged with possession~~
17 ~~of marijuana, which possession is of one ounce or less, It shall be unlawful for any person~~
18 ~~to possess or have under his or her control two ounces or less of marijuana. Any person~~
19 ~~who violates this subsection shall be guilty of a misdemeanor, and upon conviction thereof,~~
20 ~~shall be punished as follows:~~

21 ~~(1) If the aggregate weight is one-half ounce or less, he or she shall be punished by a fine~~
22 ~~not to exceed \$300.00; and~~

23 ~~(2) If the aggregate weight is at least one-half ounce but not more than two ounces, he~~
24 ~~or she shall be punished by imprisonment for a period not to exceed 12 months or a fine~~

25 not to exceed \$1,000.00, or both, or ~~public works~~ community service not to exceed 12
 26 months."

27 **SECTION 1-2.**

28 Said chapter is further amended by revising subsection (j) of Code Section 16-13-30, relating
 29 to purchase, possession, manufacture, distribution, or sale of controlled substances or
 30 marijuana, as follows:

31 "(j)(1) It shall be unlawful for any person to possess, have under his or her control,
 32 manufacture, deliver, distribute, dispense, administer, purchase, sell, or possess with
 33 intent to distribute two ounces or more of marijuana or possess with the intent to
 34 distribute marijuana.

35 (2) Except as otherwise provided in subsection (c) of Code Section 16-13-31 or in Code
 36 Section 16-13-2, any person who violates this subsection shall be guilty of a felony and,
 37 upon conviction thereof, shall be punished by imprisonment for not less than one year nor
 38 more than ten years."

39 **PART II**

40 **SECTION 2-1.**

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

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

47 **SECTION 2-2.**

48 Said title is further amended by revising paragraph (1) of subsection (a) of Code Section
 49 15-9-30.6, relating to probate court jurisdiction over certain drug and alcohol offenses, as
 50 follows:

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

53 **SECTION 2-3.**

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

56 "(a) This article governs trials of misdemeanor violations of Code Sections ~~16-13-30,~~
57 16-13-2, 16-8-14, 16-8-14.1, 3-3-23, and 16-7-21."

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

60 **SECTION 2-4.**

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

65 "(4) Any crime involving the possession, manufacture, delivery, distribution, dispensing,
66 administering, selling, or possession with intent to distribute any controlled substance or
67 marijuana as provided in Code ~~Section~~ Sections 16-13-2 and 16-13-30, any counterfeit
68 substance as defined in Code Section 16-13-21, or any noncontrolled substance as
69 provided in Code Section 16-13-30.1; or"

70 **SECTION 2-5.**

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

74 "(B) A violation of ~~paragraph (1)~~ of subsection (j) (b) of Code Section ~~16-13-30~~
75 16-13-2 for possession of ~~less than one ounce~~ of marijuana; or"

76 **SECTION 2-6.**

77 Chapter 7 of Title 17 of the Official Code of Georgia Annotated, relating to pretrial
78 proceedings, is amended by revising Code Section 17-7-72, relating to jurisdiction of probate
79 courts to try certain drug and alcohol offenses, as follows:

80 "17-7-72.

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

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

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

90 **SECTION 2-7.**

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

94 "(a) The municipal court of any municipality is granted jurisdiction to try and dispose of
95 cases where a person is charged with the misdemeanor possession of ~~one ounce or less of~~
96 marijuana if the offense occurred within the corporate limits of such municipality. The
97 jurisdiction of any such court shall be concurrent with the jurisdiction of any other courts
98 within the county having jurisdiction to try and dispose of such cases."

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

103 **PART III**104 **SECTION 3-1.**

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