

House Bill 878

By: Representatives Frye of the 118th, Hutchinson of the 107th, McLaurin of the 51st, Kendrick of the 93rd, Alexander of the 66th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 16, 35, and 36 of the Official Code of Georgia Annotated, relating to crimes
2 and offenses, law enforcement, and local government, respectively, so as to provide counties
3 and municipalities greater control over misdemeanors related to possession of marijuana; to
4 clarify a certain provision; to provide that counties and municipalities are not limited by
5 current law in adopting ordinances or resolutions regarding the possession of marijuana; to
6 remove the fingerprint requirement for certain violations related to marijuana; to provide for
7 related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
11 amended by revising subsection (b) of Code Section 16-13-2, relating to conditional
12 discharge for possession of controlled substances as first offense and certain nonviolent
13 property crimes, dismissal of charges, and restitution to victims, and by adding a new
14 subsection to read as follows:

15 "(b) Notwithstanding any law to the contrary and except as provided in this Code section,
16 any person who is charged with possession of marijuana, which possession is of one ounce
17 or less, shall, upon conviction, be guilty of a misdemeanor and punished by imprisonment
18 for a period not to exceed 12 months or a fine not to exceed \$1,000.00, or both, or public
19 works not to exceed 12 months.

20 (b.1) This Code section shall not be deemed or construed to affect or limit the powers of
21 counties or municipal corporations to adopt ordinances or resolutions prohibiting the
22 possession of one ounce or less of marijuana within their respective jurisdictions."

23 **SECTION 2.**

24 Said title is further amended by revising subsection (j) of Code Section 16-13-30, relating
 25 to purchase, possession, manufacture, distribution, or sale of controlled substances or
 26 marijuana, and penalties, as follows:

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

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

34 (3) This Code section shall not be deemed or construed to affect or limit the powers of
 35 counties or municipal corporations to adopt ordinances or resolutions prohibiting the
 36 possession of one ounce or less of marijuana within their respective jurisdictions."

37 **SECTION 3.**

38 Title 35 of the Official Code of Georgia Annotated, relating to law enforcement, is amended
 39 by revising division (a)(1)(A)(ii) of Code Section 35-3-33, relating to powers and duties of
 40 the Georgia Crime Information Center, as follows:

41 "(ii) For an offense which is a misdemeanor or a violation of an ordinance involving
 42 burglary tools, commercial gambling, dealing in gambling devices, contributing to the
 43 delinquency of a child, dealing in stolen property, dangerous drugs, ~~marijuana~~,
 44 narcotics, firearms, dangerous weapons, explosives, pandering, prostitution, sexual
 45 offenses where children are victims, or worthless checks;"

46 **SECTION 4.**

47 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
 48 by revising Code Section 36-32-6, relating to jurisdiction in marijuana possession cases,
 49 retention of fines and bond forfeitures, and transfer of cases, as follows:

50 "36-32-6.

51 (a) The municipal court of any municipality is granted jurisdiction to try and dispose of
 52 cases where a person is charged with ~~the~~ a misdemeanor violation of possession of one
 53 ounce or less of marijuana if the offense occurred within the corporate limits of such
 54 municipality. The jurisdiction of any such court shall be concurrent with the jurisdiction
 55 of any other courts within the county having jurisdiction to try and dispose of such cases.

56 (b) Any fines and bond forfeitures arising from the prosecution of such cases shall be
 57 retained by the municipality and shall be paid into the treasury of such municipality.

58 (c) Any defendant charged with a misdemeanor violation of possession of an ounce or less
59 of marijuana in a municipal court shall be entitled on request to have the case against him
60 or her transferred to the court having general misdemeanor jurisdiction in the county
61 wherein the alleged offense occurred.

62 (d) Nothing in this Code section shall be construed to give any municipality the right to
63 impose a fine or punish by imprisonment in excess of the limits as set forth in the
64 municipality's charter."

65 **SECTION 5.**

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