

Senate Bill 558

By: Senators Jones II of the 22nd, Mallow of the 2nd, Harbison of the 15th, Howard of the 35th, Harrell of the 40th 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 revise a definition; to change provisions relating to punishment;
4 to amend Title 15, Title 16, Title 17, and Code Section 36-32-6 of the Official Code of
5 Georgia Annotated, relating to courts, crimes and offenses, criminal procedure, and
6 municipal court jurisdiction in marijuana possession cases, respectively, so as to provide for
7 conforming cross-references; to provide for related matters; to repeal conflicting laws; and
8 for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **PART I**
11 **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 conditional discharge for possession of controlled substances as first offense and certain
15 nonviolent property crimes, dismissal of charges, and restitution to victims, as follows:

S. B. 558

- 1 -

16 "(b)(1) It shall be unlawful for any person to possess or have under his or her control
 17 three ounces or less of marijuana.

18 (2) Any person who violates paragraph (1) of this subsection and the aggregate weight
 19 of marijuana is one-half ounce or less, he or she shall be guilty of a misdemeanor and
 20 shall be punished by a fine not to exceed \$300.00 or community service not to exceed
 21 250 hours.

22 (3) Any person who violates paragraph (1) of this subsection and the aggregate weight
 23 of marijuana is at least one-half ounce but not more than three ounces shall:

24 (A) Upon the first, second, or third conviction thereof, be guilty of a misdemeanor and
 25 shall be punished by a fine not to exceed \$1,000.00 or community service not to exceed
 26 500 hours; and

27 (B) Upon the fourth and each subsequent conviction thereof, be guilty of a
 28 misdemeanor of a high and aggravated nature.

29 ~~Notwithstanding any law to the contrary, any person who is charged with possession of~~
 30 ~~marijuana, which possession is of one ounce or less, shall be guilty of a misdemeanor and~~
 31 ~~punished by imprisonment for a period not to exceed 12 months or a fine not to exceed~~
 32 ~~\$1,000.00, or both, or public works not to exceed 12 months."~~

33

SECTION 1-2.

34 Said chapter is further amended by revising paragraph (2) of subsection (a) of Code Section
 35 16-13-5, relating to immunity from arrest or prosecution for persons seeking medical
 36 assistance for drug overdose, as follows:

37 "(2) 'Drug violation' means:

38 (A) A violation of subsection (a) of Code Section 16-13-30 for possession of a
 39 controlled substance if the aggregate weight, including any mixture, is less than four
 40 grams of a solid substance, less than one milliliter of liquid substance, or if the

41 substance is placed onto a secondary medium with a combined weight of less than four
42 grams;

43 (B) A violation of subsection (b) of Code Section 16-13-2 ~~paragraph (1) of subsection~~
44 ~~(j) of Code Section 16-13-30~~ for possession of three ounces or less than one ounce of
45 marijuana; or

46 (C) A violation of Code Section 16-13-32.2, relating to possession and use of drug
47 related objects."

48 **SECTION 1-3.**

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

52 "(j)(1) It shall be unlawful for any person to possess, have under his or her control,
53 manufacture, deliver, distribute, dispense, administer, purchase, sell, or possess with
54 intent to distribute more than three ounces of marijuana or possess with the intent to
55 distribute marijuana.

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

60 **PART II**

61 **SECTION 2-1.**

62 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising
63 subsection (b) of Code Section 15-7-4, relating to jurisdiction and authority of state court
64 judges, as follows:

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

69 **SECTION 2-2.**

70 Said title is further amended by revising paragraph (1) of subsection (a) of Code Section
 71 15-9-30.6, relating to probate court jurisdiction over certain drug and alcohol offenses, as
 72 follows:

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 **SECTION 2-3.**

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

78 "(a) This article governs trials of misdemeanor violations of Code Sections ~~16-13-30;~~
 79 16-13-2, 16-8-14, 16-8-14.1, 3-3-23, and 16-7-21."

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

82 **SECTION 2-4.**

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

87 "(4) Any crime involving the possession, manufacture, delivery, distribution, dispensing,
 88 administering, selling, or possession with intent to distribute any controlled substance or

89 marijuana as provided in Code ~~Section~~ Sections 16-13-2 and 16-13-30, any counterfeit
 90 substance as defined in Code Section 16-13-21, or any noncontrolled substance as
 91 provided in Code Section 16-13-30.1; or"

92 **SECTION 2-5.**

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

96 "(B) A violation of ~~paragraph (1)~~ of subsection (j) (b) of Code Section ~~16-13-30~~
 97 16-13-2 for possession of ~~less than one ounce of~~ marijuana; or"

98 **SECTION 2-6.**

99 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is
 100 amended by revising Code Section 17-7-72, relating to jurisdiction of probate courts to try
 101 certain drug and alcohol offenses, as follows:

102 "17-7-72.

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

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

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

112 **SECTION 2-7.**

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

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

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

125 **PART III**126 **SECTION 3-1.**

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