

2019 Regular Session

HOUSE BILL NO. 59

BY REPRESENTATIVE MARCELLE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

DRUGS/CONTROLLED: Provides relative to penalties for possession of marijuana

1 AN ACT

2 To amend and reenact R.S. 40:966(C)(2), relative to marijuana; to provide relative to
3 penalties for possession of marijuana; to amend criminal penalties for a first
4 conviction of possession of marijuana; to provide relative to penalties for possession
5 of marijuana when the amount possessed is twenty-eight grams or more; and to
6 provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 40:966(C)(2) is hereby amended and reenacted to read as follows:

9 §966. Penalty for distribution or possession with intent to distribute narcotic drugs
10 listed in Schedule I; possession of marijuana, synthetic cannabinoids, and
11 heroin

12 * * *

13 C. Possession. It is unlawful for any person knowingly or intentionally to
14 possess a controlled dangerous substance classified in Schedule I unless such
15 substance was obtained directly, or pursuant to a valid prescription or order, from a
16 practitioner or as provided in R.S. 40:978, while acting in the course of his
17 professional practice, or except as otherwise authorized by this Part. Any person
18 who violates this Subsection with respect to:

19 * * *

1 (2) A substance classified in Schedule I that is marijuana,
2 tetrahydrocannabinol, or chemical derivatives thereof, shall be punished as follows:

3 (a) On a first conviction, wherein the offender possesses fourteen grams or
4 less, the offender shall be fined not more than three hundred dollars, ~~imprisoned in~~
5 ~~the parish jail for not more than fifteen days, or both.~~ or sentenced to not more than
6 forty-eight hours of court-approved community service activities.

7 (b) On a first conviction, wherein the offender possesses more than fourteen
8 grams but less than twenty-eight grams, the offender shall be fined not more than
9 ~~five~~ three hundred dollars, imprisoned in the parish jail for not more than six months,
10 or both. In addition, the court may sentence the offender to perform not more than
11 forty-eight hours of court-approved community service activities.

12 (c) On a first conviction, wherein the offender possesses twenty-eight grams
13 or more, the offender shall be fined not more than five hundred dollars, imprisoned
14 in the parish jail for not more than six months, or both. In addition, the court may
15 sentence the offender to perform not more than forty-eight hours of court-approved
16 community service activities.

17 ~~(e)~~(d) Any person who has been sentenced under the provisions of
18 Subparagraph ~~(a)~~ or ~~(b)~~ (a), (b), or (c) of this Paragraph and who has not been
19 convicted of any other violation of a statute or ordinance prohibiting the possession
20 of marijuana for a period of two years from the date of completion of sentence,
21 probation, parole, or suspension of sentence shall not have the conviction used as a
22 predicate conviction for enhancement purposes. The provisions of this Paragraph
23 shall occur only once with respect to any person.

24 ~~(d)~~(e) On a second conviction the offender shall be fined not more than one
25 thousand dollars, imprisoned in the parish jail for not more than six months, or both.

26 ~~(e)~~(f)(i) On a third conviction the offender shall be sentenced to
27 imprisonment, with or without hard labor, for not more than two years, shall be fined
28 not more than two thousand five hundred dollars.

1 (ii) If the court places the offender on probation, the probation shall provide
2 for a minimum condition that he participate in a court-approved substance abuse
3 program and perform four eight-hour days of court-approved community service
4 activities. Any costs associated with probation shall be paid by the offender.

5 ~~(f)~~(g)(i) On a fourth or subsequent conviction the offender shall be sentenced
6 to imprisonment with or without hard labor for not more than eight years, shall be
7 fined not more than five thousand dollars, or both.

8 (ii) If the court places the offender on probation, the probation shall provide
9 for a minimum condition that he participate in a court-approved substance abuse
10 program and perform four eight-hour days of court-approved community service
11 activities. Any costs associated with probation shall be paid by the offender.

12 ~~(g)~~(h) Except as provided in Subparagraph ~~(e)~~(d) of this Paragraph, a
13 conviction for the violation of any other statute or ordinance with the same elements
14 as Subsection C of this Section prohibiting the possession of marijuana,
15 tetrahydrocannabinol or chemical derivatives thereof, shall be considered as a prior
16 conviction for the purposes of this Subsection relating to penalties for second, third,
17 or subsequent offenders.

18 ~~(h)~~(i) Except as provided in Subparagraph ~~(e)~~ (d) of this Paragraph, a
19 conviction for the violation of any other statute or ordinance with the same elements
20 as Paragraph (B)(2) of this Section prohibiting the distributing or dispensing or
21 possession with intent to distribute or dispense marijuana, tetrahydrocannabinol or
22 chemical derivatives thereof, or synthetic cannabinoids shall be considered as a prior
23 conviction for the purposes of this Subsection relating to penalties for second, third,
24 or subsequent offenders.

25 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 59 Engrossed

2019 Regular Session

Marcelle

Abstract: Amends the criminal penalties for a first conviction of possession of marijuana.

Present law provides for the following penalties with regard to a first conviction of possession of marijuana:

- (1) Offender possesses 14 grams or less - fined up to \$300, imprisoned for not more than 15 days, or both.
- (2) Offender possesses more than 14 grams - fined up to \$500, imprisoned for not more than six months, or both.

Proposed law amends the penalties for a first conviction of possession of marijuana as follows:

- (1) Offender possesses 14 grams or less - fined up to \$300 or sentenced to not more than 48 hours of court-approved community service. Removes the present law term of imprisonment.
- (2) Offender possesses more than 14 grams but less than 28 grams - fined up to \$300, imprisoned for not more than six months, or both. In addition, the court may sentence the offender to perform not more than 48 hours of court-approved community service.
- (3) Offender possesses 28 grams or more - fined up to \$500, imprisoned for not more than six months, or both. In addition, the court may sentence the offender to perform not more than 48 hours of court-approved community service.

(Amends R.S. 40:966(C)(2))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. For first convictions, when the offender possesses 14 grams or less of marijuana, provide that the offender shall be fined not more than \$300 or sentenced to not more than 48 hours of court-approved community service.
2. For other first convictions of possession of marijuana, in addition to the fines or terms of imprisonment, provide that the court may sentence the offender to perform not more than 48 hours of court-approved community service.