

Regular Session, 2014

HOUSE BILL NO. 839

BY REPRESENTATIVE HONORE

CONTROLLED SUBSTANCES: Changes the designation of marijuana from a Schedule I to a Schedule II controlled dangerous substance

1 AN ACT

2 To amend and reenact R.S. 40:966(B)(3), (E)(1), (2)(a), (3), (4), and (5), (F)(1), (2), and (3)
3 and 967(B)(5), and (C), to enact R.S. 40:964(Schedule II)(A)(7) and 967(B)(6) and
4 (F)(4), and to repeal R.S. 40:964(Schedule I)(C)(19) and (27), relative to the
5 Uniform Controlled Dangerous Substances Law; to redesignate marijuana,
6 tetrahydrocannabinol, or chemical derivatives thereof as Schedule II controlled
7 dangerous substances; to provide with respect to penalty provisions; to retain
8 synthetic cannabinoids as Schedule I controlled dangerous substances; and to provide
9 for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 40:966(B)(3), (E)(1), (2)(a), (3), (4), and (5), (F)(1), (2), and (3) and
12 967(B)(5) and (C) are hereby amended and reenacted and R.S. 40:964(Schedule II)(A)(7)
13 and 967(B)(6) and (F)(4) are hereby enacted to read as follows:

14 §964. Composition of schedules

15 Schedules I, II, III, IV, and V shall, unless and until added to pursuant to R.S.
16 40:962, consist of the following drugs or other substances, by whatever official
17 name, common or usual name, chemical name, or brand name designated:

18 * * *

1 SCHEDULE II

2 A. Substances of vegetable origin or chemical synthesis. Unless specifically
3 excepted or unless listed in another schedule, any of the following substances
4 whether produced directly or indirectly by extraction from substances of vegetable
5 origin, or independently by means of chemical synthesis, or by a combination of
6 extraction and chemical synthesis:

7 * * *

8 (7) Marijuana, tetrahydrocannabinol, or chemical derivatives thereof.

9 * * *

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

13 * * *

14 B. Penalties for violation of Subsection A of this Section. Any person who
15 violates Subsection A of this Section with respect to:

16 * * *

17 (3) A substance classified in Schedule I which is ~~marijuana~~,
18 ~~tetrahydrocannabinols, or chemical derivatives of tetrahydrocannabinols, or a~~
19 ~~synthetic cannabinoids~~ cannabinoid shall upon conviction be sentenced to a term of
20 imprisonment at hard labor for not less than five nor more than thirty years, and pay
21 a fine of not more than fifty thousand dollars.

22 * * *

23 E. Possession of ~~marijuana~~, or synthetic cannabinoids. (1) Except as
24 provided in Subsections E and F of this Section, on a first conviction for violation
25 of Subsection C of this Section with regard to ~~marijuana, tetrahydrocannabinol, or~~
26 ~~chemical derivatives thereof~~, or synthetic cannabinoids, the offender shall be fined
27 not more than five hundred dollars, imprisoned in the parish jail for not more than
28 six months, or both.

(2)(a) Except as provided in Subsection F or G of this Section, on a second conviction for violation of Subsection C of this Section with regard to ~~marijuana, tetrahydrocannabinol or chemical derivatives thereof, or synthetic cannabinoids~~, the offender shall be fined not less than two hundred fifty dollars, nor more than two thousand dollars, imprisoned with or without hard labor for not more than five years, or both.

* * *

(3) Except as provided in Subsection F or G of this Section, on a third or subsequent conviction for violation of Subsection C of this Section with regard to ~~marijuana, tetrahydrocannabinol or chemical derivatives thereof, or synthetic cannabinoids~~, the offender shall be sentenced to imprisonment with or without hard labor for not more than twenty years, and may, in addition, be sentenced to pay a fine of not more than five thousand dollars.

(4) A conviction for the violation of any other statute or ordinance with the same elements as ~~R.S. 40:966(C)~~ Subsection C of this Section prohibiting the possession of marijuana, tetrahydrocannabinol or chemical derivatives thereof, or synthetic cannabinoids shall be considered as a prior conviction for the purposes of this Subsection relating to penalties for second, third, or subsequent offenders.

(5) A conviction for the violation of any other statute or ordinance with the same elements as ~~R.S. 40:966(B)(3)~~ Paragraph (B)(3) of this Section prohibiting the distributing or dispensing or possession with intent to distribute or dispense ~~marijuana, of marijuana,† tetrahydrocannabinol or chemical derivatives thereof, or~~ synthetic cannabinoids shall be considered as a prior conviction for the purposes of this Subsection relating to penalties for second, third, or subsequent offenders.

F. Except as otherwise authorized in this Part:

(1) Any person who knowingly or intentionally possesses sixty pounds or more, but less than two thousand pounds of ~~marijuana, tetrahydrocannabinol or chemical derivatives thereof, or synthetic cannabinoids~~ shall be sentenced to serve a term of imprisonment at hard labor of not less than five years, nor more than thirty

1 years, and to pay a fine of not less than fifty thousand dollars nor more than one
2 hundred thousand dollars.

3 (2) Any person who knowingly or intentionally possesses two thousand
4 pounds or more, but less than ten thousand pounds of ~~marijuana,~~
5 ~~tetrahydrocannabinol or chemical derivatives thereof,~~ or synthetic cannabinoids shall
6 be sentenced to serve a term of imprisonment at hard labor of not less than ten years
7 nor more than forty years, and to pay a fine of not less than one hundred thousand
8 dollars nor more than four hundred thousand dollars.

9 (3) Any person who knowingly or intentionally possesses ten thousand
10 pounds or more of ~~marijuana, tetrahydrocannabinol or chemical derivatives thereof,~~
11 ~~or~~ synthetic cannabinoids shall be sentenced to serve a term of imprisonment at hard
12 labor of not less than twenty-five years, nor more than forty years and to pay a fine
13 of not less than four hundred thousand dollars nor more than one million dollars.

14 * * *

15 §967. Prohibited acts--Schedule II, penalties; possession of marijuana

16 * * *

17 B. Penalties for violation of Subsection A. Except as provided in Subsection
18 F, any person who violates Subsection A with respect to:

19 * * *

20 (5) A substance classified in Schedule II which is marijuana,
21 tetrahydrocannabinols, or chemical derivatives of tetrahydrocannabinols shall upon
22 conviction be sentenced to a term of imprisonment at hard labor for not less than five
23 nor more than thirty years, and a fine of not more than fifty thousand dollars.

24 (6) Any other controlled dangerous substance classified in Schedule II
25 except pentazocine, amphetamine, methamphetamine, cocaine, oxycodone, or
26 methadone shall be sentenced to a term of imprisonment at hard labor for not more
27 than ten years, and in addition may be sentenced to pay a fine of not more than
28 fifteen thousand dollars.

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

7 (1) ~~Any person who violates this Subsection with respect to pentazocine~~
8 Pentazocine shall be imprisoned with or without hard labor for not less than two
9 years and for not more than five years and, in addition, may be sentenced to pay a
10 fine of not more than five thousand dollars.

11 (2)(a) Marijuana, tetrahydrocannabinol, or chemical derivatives thereof
12 except as provided in Subsections F and G of this Section, on a first conviction the
13 offender shall be fined not more than five hundred dollars, imprisoned for not more
14 than six months, or both.

15 (b) Except as provided in Subsections F and G of this Section, on a second
16 conviction for violation of this Subsection with regard to marijuana,
17 tetrahydrocannabinol, or chemical derivatives thereof, the offender shall be fined not
18 less than two hundred fifty dollars nor more than two thousand dollars, imprisoned
19 with or without hard labor for not more than five years, or both.

20 (c) Except as provided in Subsections F and G of this Section, on a third or
21 subsequent conviction for violation of this Subsection with regard to marijuana,
22 tetrahydrocannabinol, or chemical derivatives thereof, the offender shall be
23 sentenced to imprisonment with or without hard labor for not more than twenty
24 years, and may, in addition, be fined not more than five thousand dollars.

25 (d) A conviction for the violation of any other statute or ordinance with the
26 same elements as Subsection C of this Section prohibiting the possession of
27 marijuana, tetrahydrocannabinol, or chemical derivatives thereof shall be considered
28 a prior conviction for the purposes of this Subsection relating to penalties for second,
29 third, or subsequent offenses.

(e) A conviction for the violation of any other statute or ordinance with the same elements as Paragraph (B)(5) of this Section prohibiting the distributing or dispensing or possession with intent to distribute or dispense marijuana, tetrahydrocannabinol, or chemical derivatives thereof shall be considered a prior conviction for the purposes of this Subsection relating to penalties for second, third, or subsequent offenses.

~~(2)(3)~~ Any person who violates this Subsection as to any other controlled dangerous substance shall be imprisoned with or without hard labor for not more than five years and, in addition, may be sentenced to pay a fine of not more than five thousand dollars.

* * *

F. Other penalties for possession.

* * *

(4) Except as otherwise authorized in this Part:

(a) Any person who knowingly or intentionally possesses sixty pounds or more, but less than two thousand pounds of marijuana, tetrahydrocannabinol, or chemical derivatives thereof, shall be sentenced to serve a term of imprisonment at hard labor of not less than five years nor more than thirty years, and to pay a fine of not less than fifty thousand dollars nor more than one hundred thousand dollars.

(b) Any person who knowingly or intentionally possesses two thousand pounds or more, but less than ten thousand pounds of marijuana, tetrahydrocannabinol, or chemical derivatives thereof, shall be sentenced to serve a term of imprisonment at hard labor of not less than ten years nor more than forty years, and to pay a fine of not less than one hundred thousand dollars nor more than four hundred thousand dollars.

(c) Any person who knowingly or intentionally possesses ten thousand pounds or more of marijuana, tetrahydrocannabinol, or chemical derivatives thereof, shall be sentenced to serve a term of imprisonment at hard labor of not less than

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twenty-five years nor more than forty years and to pay a fine of not less than four
hundred thousand dollars nor more than one million dollars.

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Section 2. R.S. 40:964(Schedule I)(C)(19) and (27) are hereby repealed in their
entirety.

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)]

Honore

HB No. 839

Abstract: Re-schedules marijuana from Schedule I to Schedule II.

Present law provides for classification of controlled dangerous substances in Schedules I through V.

Present law describes substances in Schedule I as having a high potential for abuse, no current acceptable medical use, and a lack of safety standards for using the drug. Schedule II controlled dangerous substances also have a high potential for abuse, but there are accepted medical uses for the drug and the use of the drug may lead to severe psychological or physical dependence.

Proposed law changes the designation of marijuana from Schedule I to Schedule II.

(Amends R.S. 40:966(B)(3), (E)(1), (2)(a), (3), (4), and (5), (F)(1), (2), and (3) and 967(B)(5) and (C); Adds R.S. 40:964(Schedule II)(A)(7) and 967(B)(6) and (F)(4); Repeals R.S. 40:964(Schedule I)(C)(19) and (27))