

Regular Session, 2014

SENATE BILL NO. 323

BY SENATORS MORRELL AND ADLEY

CRIME/PUNISHMENT. Reduces criminal penalties for marijuana possession and prohibits application of enhanced sentencing laws to second and subsequent offense marijuana possession. (gov sig)

AN ACT

To amend and reenact R.S. 40:966(E) and 982, relative to the Uniform Controlled Dangerous Substances Law; to provide relative to penalties for possession of marijuana; to reduce the penalties for simple possession of marijuana and to prohibit the application of second and subsequent offense sentencing provisions to prior convictions of marijuana possession; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:966(E) and 982 are hereby amended and reenacted to read as follows:

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

\* \* \*

E.~~(1)~~ Possession of marijuana,~~or synthetic cannabinoids.~~ ~~(1)~~ **(a)** Except as provided in Subsections ~~E and F~~ **and G** of this Section, ~~on a first conviction for violation of~~ **any person who violates** Subsection C of this Section with regard to marijuana, tetrahydrocannabinol, or chemical derivatives thereof, ~~or synthetic~~

1           cannabinoids the offender shall be fined not more than five one hundred dollars,  
2           imprisoned in the parish jail for not more than six months, or both.

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

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

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

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

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

1                   **(2) Possession of synthetic cannabinoids. (a) Except as provided in**  
2                   **Subsections E and F of this Section, on a first conviction for violation of**  
3                   **Subsection C of this Section with regard to synthetic cannabinoids, the offender**  
4                   **shall be fined not more than five hundred dollars, imprisoned in the parish jail**  
5                   **for not more than six months, or both.**

6                   **(b) Except as provided in Subsection F or G of this Section, on a second**  
7                   **or subsequent conviction for violation of Subsection C of this Section with**  
8                   **regard to synthetic cannabinoids, the offender shall be fined not less than two**  
9                   **hundred fifty dollars nor more than two thousand dollars, imprisoned with or**  
10                   **without hard labor for not more than five years, or both.**

11                   **(c) Except as provided in Subsection F or G of this Section, on a third or**  
12                   **subsequent conviction for violation of Subsection C of this Section with regard**  
13                   **to synthetic cannabinoids, the offender shall be sentenced to imprisonment with**  
14                   **or without hard labor for not more than twenty years and may, in addition, be**  
15                   **sentenced to pay a fine of not more than five thousand dollars.**

16                   **(d) A conviction for the violation of any other statute or ordinance with**  
17                   **the same elements as R.S. 40:966(C) prohibiting the possession of synthetic**  
18                   **cannabinoids shall be considered as a prior conviction for the purposes of this**  
19                   **Subsection relating to penalties for second, third, or subsequent offenders.**

20                   **(e) A conviction for the violation of any other statute or ordinance with**  
21                   **the same elements as R.S. 40:966(B)(3) prohibiting the distributing or**  
22                   **dispensing or possession with intent to distribute or dispense synthetic**  
23                   **cannabinoids shall be considered as a prior conviction for the purposes of this**  
24                   **Subsection relating to penalties for second, third, or subsequent offenders.**

25   \*           \*           \*

26                   §982. Second or subsequent offenses

27                   A. Any **Except as provided in Subsection C of this Section,** any person  
28                   convicted of any offense under this part, if the offense is a second or subsequent  
29                   offense, shall be sentenced to a term of imprisonment that is twice that otherwise

1 authorized or to payment of a fine that is twice that otherwise authorized, or both.  
 2 If the conviction is for an offense punishable under R.S. 40:966(B), R.S. 40:967(B),  
 3 R.S. 40:968(B) or R.S. 40:969(B), and if it is the offender's second or subsequent  
 4 offense, the court may impose in addition to any term of imprisonment and fine,  
 5 twice the special parole term otherwise authorized.

6 **B. For Except as provided in Subsection C of this Section, for** purposes  
 7 of this ~~section~~ **Section**, an offense shall be considered a second or subsequent  
 8 offense, if, prior to the commission of such offense, the offender had at any time  
 9 been convicted of any violation of this state, the United States, any other state of or  
 10 any foreign country, relating to the unlawful use, possession, production,  
 11 manufacturing, distribution, or dispensation of any narcotic drug, marijuana,  
 12 depressant, stimulant, or hallucinogenic drugs.

13 **C. This Section does not apply to an offense punishable under R.S.**  
 14 **40:966(E)(1).**

15 Section 2. This Act shall become effective upon signature by the governor or, if not  
 16 signed by the governor, upon expiration of the time for bills to become law without signature  
 17 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 18 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 19 effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part  
 of the legislative instrument, were prepared by Alden A. Clement, Jr.

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#### DIGEST

Morrell (SB 323)

Present law provides penalties for the present law crimes of distribution or possession with intent to distribute marijuana and possession of synthetic cannabinoids.

Present law provides that on a first conviction for possession of marijuana or synthetic cannabinoids, the offender is to be fined up to \$500, imprisoned for up to six months, or both.

Present law provides that on a second conviction for possession of marijuana or synthetic cannabinoids, the offender is to be fined between \$250 and \$2,000, imprisoned with or without hard labor for up to five years, or both. Present law further provides that if the court places the offender on probation, the probation must require the offender to participate in a court-approved substance abuse program and perform four eight-hour days of court-approved community service, with any costs associated with probation to be paid by the

offender.

Present law provides that on a third or subsequent conviction for possession of marijuana or synthetic cannabinoids, the offender is to be imprisoned with or without hard labor for up to 20 years, and also may be fined up to \$5,000.

Present law provides that a conviction for the violation of any other statute or ordinance with the same elements as present law relative to simple possession of marijuana or synthetic cannabinoids is considered to be a prior conviction for the purposes of present law penalties for second, third, or subsequent offenders.

Present law provides that a conviction for the violation of any other statute or ordinance with the same elements as present law prohibiting the distributing or dispensing or possession with intent to distribute or dispense marijuana or synthetic cannabinoids is considered to be a prior conviction for the purposes of present law penalties for second, third, or subsequent offenders.

Proposed law reduces the penalty for possession of marijuana for any offense, not only first offense, to a fine of up to \$100, or imprisonment for up to six months, or both.

Proposed law retains the present law penalties for first and subsequent offenses relative to possession of synthetic cannabinoids.

Proposed law retains present law relative to prior convictions of possession of synthetic cannabinoids.

Present law provides relative to enhanced sentencing for second and subsequent violations of the Uniform Controlled Dangerous Substances Law.

Proposed law retains present law except to exclude possession of marijuana from these enhanced sentencing provisions of present law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 40:966(E) and 982)