HLS 14RS-846 ORIGINAL

Regular Session, 2014

HOUSE BILL NO. 906

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BY REPRESENTATIVE WOODRUFF

CONTROLLED SUBSTANCES: Amends penalty provisions for possession of marijuana

AN ACT

2	To amend and reenact R.S. 40:966(E) and to enact R.S. 15:529.1(A)(5), relative to
3	possession of marijuana; to amend the criminal penalties for certain possession
4	offenses; to provide with respect to sentencing pursuant to the Habitual Offender
5	Law; and to provide for related matters.
6	Be it enacted by the Legislature of Louisiana:
7	Section 1. R.S. 40:966(E) is hereby amended and reenacted to read as follows:
8	§966. Penalty for distribution or possession with intent to distribute narcotic drugs
9	listed in Schedule I; possession of marijuana; possession of synthetic
0	cannabinoids
1	* * *
12	E. Possession of marijuana or synthetic cannabinoids.
13	(1) Except as provided in Subsections F or G of this Section, on a conviction
14	for violation of Subsection C of this Section with regard to marijuana,
15	tetrahydrocannabinol, or chemical derivatives thereof, or synthetic cannabinoids
16	when the offender possesses less than twenty-eight grams, the offender shall be
17	punished as follows:
18	(a) On a first conviction, the offender shall be fined not less than fifty dollars
19	nor more than one hundred dollars.

1	(b) On a second conviction, the offender shall be fined not less than one
2	hundred dollars nor more than one hundred fifty dollars.
3	(c) On a third or subsequent conviction, the offender shall be fined not less
4	than one hundred fifty dollars nor more than two hundred dollars, or placed on
5	probation for not more than six months, or both. If the court places the offender on
6	probation, the probation shall provide for a minimum condition that he participate
7	in a court-approved substance abuse program and perform four eight-hour days of
8	court-approved community service activities. Any costs associated with probation
9	shall be paid by the offender.
10	(2)(a) Except as provided in Subsections E and F or G of this Section, on a
11	first conviction for violation of Subsection C of this Section with regard to
12	marijuana, tetrahydrocannabinol, or chemical derivatives thereof, or synthetic
13	cannabinoids when the offender possesses twenty-eight grams or more but less than
14	sixty pounds, the offender shall be fined not more than five hundred dollars,
15	imprisoned in the parish jail for not more than six months, or both.
16	(2)(a)(b) Except as provided in Subsection F or G of this Section, on a
17	second conviction for violation of Subsection C of this Section with regard to
18	marijuana, tetrahydrocannabinol or chemical derivatives thereof, or synthetic
19	cannabinoids when the offender possesses twenty-eight grams or more but less than
20	sixty pounds, the offender shall be fined not less than two hundred fifty dollars, nor
21	more than two thousand dollars, imprisoned with or without hard labor for not more
22	than five years, or both.
23	(b)(c) If the court places the offender on probation, the probation shall
24	provide for a minimum condition that he participate in a court-approved substance
25	abuse program and perform four eight-hour days of court-approved community
26	service activities. Any costs associated with probation shall be paid by the offender.
27	(3) Except as provided in Subsection F or G of this Section, on a third or
28	subsequent conviction for violation of Subsection C of this Section with regard to
29	marijuana, tetrahydrocannabinol or chemical derivatives thereof, or synthetic

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2	sixty pounds, the offender shall be sentenced to imprisonment with or without hard
3	labor for not more than twenty years, and may, in addition, be sentenced to pay a fine
4	of not more than five thousand dollars.
5	(4) A conviction for the violation of any other statute or ordinance with the
6	same elements as R.S. 40:966(C) prohibiting the possession of marijuana,
7	tetrahydrocannabinol or chemical derivatives thereof, or synthetic cannabinoids
8	when the offender possesses twenty-eight grams or more but less than sixty pounds
9	shall be considered as a prior conviction for the purposes of this Subsection relating
10	to penalties for second, third, or subsequent offenders.
11	(5) A conviction for the violation of any other statute or ordinance with the
12	same elements as R.S. 40:966(B)(3) prohibiting the distributing or dispensing or
13	possession with intent to distribute or dispense marijuana, of marijuana,
14	tetrahydrocannabinol or chemical derivatives thereof, or synthetic cannabinoids
15	when the offender possesses twenty-eight grams or more but less than sixty pounds
16	shall be considered as a prior conviction for the purposes of this Subsection relating
17	to penalties for second, third, or subsequent offenders.
18	* * *
19	Section 2. R.S. 15:529.1(A)(5) is hereby enacted to read as follows:
20	§529.1. Sentences for second and subsequent offenses; certificate of warden or clerk
21	of court in the state of Louisiana as evidence
22	A. Any person who, after having been convicted within this state of a felony,
23	or who, after having been convicted under the laws of any other state or of the
24	United States, or any foreign government of a crime which, if committed in this state
25	would be a felony, thereafter commits any subsequent felony within this state, upon
26	conviction of said felony, shall be punished as follows:
27	* * *

cannabinoids when the offender possesses twenty-eight grams or more but less than

1 (5) If the current and all prior felony convictions are convictions for which
2 sentence may be imposed under R.S. 40:966(E)(1) or (2), the person shall not be
3 subject or sentenced pursuant to the provisions of this Section.
4 * * *

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)]

Woodruff HB No. 906

Abstract: Reduces criminal penalties for possession of marijuana in quantities less than 28 grams.

<u>Present law</u> provides penalties for the possession of marijuana and synthetic cannabinoids. The penalties for possession for any amount less than 60 pounds are as follows:

- (1) For first conviction, the offender shall be fined not more than \$500, imprisoned in the parish jail for not more than six months, or both.
- (2) For a second conviction, the offender shall be fined not less than \$250 nor more than \$2,000, imprisoned with or without hard labor for not more than five years, or both.
- (3) For a third or subsequent conviction, the offender shall be sentenced to imprisonment with or without hard labor for not more than 20 years, and may, in addition, be sentenced to pay a fine of not more than \$5,000.

<u>Proposed law</u> retains <u>present law</u> penalties for the possession of marijuana and synthetic cannabinoids in amounts greater than 28 grams and less than 60 pounds.

<u>Proposed law</u> establishes penalties for the possession of marijuana in an amount less than 28 grams as follows:

- (1) On a first conviction, the offender shall be fined not less than \$50 nor more than \$100
- (2) On a second conviction, the offender shall be fined not less than \$100 nor more than \$150.
- (3) On a third or subsequent conviction, the offender shall be fined not less than \$150 nor more than \$200, or placed on probation for not more than six months, or both.

<u>Proposed law</u> provides that if the court places the offender on probation, the probation shall provide for a minimum condition that he participate in a court-approved substance abuse program and perform four eight-hour days of court-approved community service activities. Any costs associated with probation shall be paid by the offender.

<u>Proposed law</u> retains the provisions of <u>present law</u> regarding synthetic cannabinoids and prohibits the Habitual Offender Law from applying when all underlying criminal convictions are for possession of marijuana.

(Amends R.S. 40:966(E); Adds R.S. 15:529.1(A)(5))

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.