

2015 Regular Session

HOUSE BILL NO. 149

BY REPRESENTATIVE BADON

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

CRIMINAL/SENTENCING: Amends certain criminal penalties for possession of marijuana and prohibits the applicability of the Habitual Offender Law relative to possession of marijuana

1 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 offenses; to
4 provide with respect to sentencing pursuant to the Habitual Offender Law; and to
5 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~~
10 ~~cannabinoids~~

11 * * *

12 E.(1) Possession of marijuana; ~~or synthetic cannabinoids.~~ (1)(a) Except as
13 provided in Subsections ~~E and F~~ and G of this Section, on a first conviction for
14 violation of Subsection C of this Section with regard to marijuana,
15 tetrahydrocannabinol, or chemical derivatives thereof, ~~or synthetic cannabinoids~~ the
16 offender shall be fined not more than five hundred dollars, imprisoned ~~in the parish~~
17 ~~jail~~ for not more than six months, or both.

18 ~~(2)(a)(b)~~ (2)(b) Except as provided in ~~Subsection~~ Subsections ~~F or~~ and G of this
19 Section, on a second conviction for violation of Subsection C of this Section with

1 regard to marijuana, tetrahydrocannabinol, or chemical derivatives thereof, or
2 ~~synthetic cannabinoids~~; the offender shall be fined not less than two hundred fifty
3 ~~dollars~~, nor more than ~~two thousand~~ five hundred dollars, imprisoned with or without
4 hard labor for not more than ~~five years~~ two years, or both.

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

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

16 (e) Except as provided in Subsections F and G of this Section, on a fourth
17 or subsequent conviction for violation of Subsection C of this Section with regard
18 to marijuana, tetrahydrocannabinol, or chemical derivatives thereof, the offender
19 shall be fined not more than two thousand dollars, imprisoned with or without hard
20 labor for not more than eight years, or both.

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

27 ~~(5)~~(g) A conviction for the violation of any other statute provision of law or
28 ordinance with the same elements as ~~R.S. 40:966(B)(3)~~ Paragraph (B)(3) of this
29 Section prohibiting the distributing or dispensing or possession with intent to

1 distribute or dispense marijuana, ~~of marijuana,~~[†] tetrahydrocannabinol, or chemical
2 derivatives thereof, ~~or synthetic cannabinoids~~ shall be considered as a prior
3 conviction for the purposes of this ~~Subsection~~ Paragraph relating to penalties for
4 second, third, fourth, or subsequent offenders.

5 (2) Possession of synthetic cannabinoids. (a) Except as provided in
6 Subsections F and G of this Section, on a first conviction for violation of Subsection
7 C of this Section with regard to synthetic cannabinoids, the offender shall be fined
8 not more than five hundred dollars, imprisoned for not more than six months, or
9 both.

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

15 (c) Except as provided in Subsections F and G of this Section, on a third or
16 subsequent conviction for violation of Subsection C of this Section with regard to
17 synthetic cannabinoids, the offender shall be sentenced to imprisonment with or
18 without hard labor for not more than twenty years, and may, in addition, be fined not
19 more than five thousand dollars.

20 (d) A conviction for the violation of any other provision of law or ordinance
21 with the same elements as Subsection C of this Section prohibiting the possession
22 of synthetic cannabinoids shall be considered a prior conviction for the purposes of
23 this Paragraph relating to penalties for second, third, or subsequent offenses.

24 (e) A conviction for the violation of any other provision of law or ordinance
25 with the same elements as Paragraph (B)(3) of this Section prohibiting the
26 distributing or dispensing or possession with intent to distribute or dispense synthetic
27 cannabinoids shall be considered a prior conviction for the purposes of this
28 Paragraph relating to penalties for second, third, or subsequent offenses.

29 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 Section 2. R.S. 15:529.1(A)(5) is hereby enacted to read as follows:

2 §529.1. Sentences for second and subsequent offenses; certificate of warden or clerk
3 of court in the state of Louisiana as evidence

4 A. Any person who, after having been convicted within this state of a felony,
5 or who, after having been convicted under the laws of any other state or of the
6 United States, or any foreign government of a crime which, if committed in this state
7 would be a felony, thereafter commits any subsequent felony within this state, upon
8 conviction of said felony, shall be punished as follows:

9 * * *

10 (5) Notwithstanding any other provision of law to the contrary, a person shall
11 not be subject to or sentenced pursuant to the provisions of this Section if all felony
12 convictions are convictions for which sentence may be imposed pursuant to R.S.
13 40:966(E)(1).

14 * * *

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 149 Original

2015 Regular Session

Badon

Abstract: Amends the criminal penalties for second and subsequent convictions of possession of marijuana and prohibits the application of the Habitual Offender Law when all underlying criminal convictions are for possession of marijuana.

Present law provides for the following penalties with regard to the crime of possession of marijuana or synthetic cannabinoids:

- (1) On a 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) On 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) On 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.

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

- (1) On a first conviction, proposed law retains present law.

- (2) On a second conviction, the offender shall be fined not more than \$500, imprisoned with or without hard labor for not more than two years, or both.
- (3) On a third conviction, the offender shall be fined not more than \$2,000, imprisoned with or without hard labor for not more than five years, or both.
- (4) On a fourth or subsequent conviction, the offender shall be fined not more than \$2,000, imprisoned with or without hard labor for not more than eight years, or both.

Present law provides for increased penalties for habitual offenders, including offenders who have been convicted of possession of marijuana or synthetic cannabinoids.

Proposed law retains present law penalties 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))