

2015 Regular Session

SENATE BILL NO. 241

BY SENATOR MORRELL

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

CRIME/PUNISHMENT. Provides relative to criminal penalties for marijuana possession.
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AN ACT

To amend and reenact R.S. 40:966(E) and 982, and to enact R.S. 40:966(I), relative to the Uniform Controlled Dangerous Substances Law; to provide relative to penalties for possession of marijuana when the amount possessed is twenty-eight grams or less; to prohibit the application of second and subsequent offense sentencing provisions to prior convictions for 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 and R.S. 40:966(I) is hereby enacted 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, possession of heroin

* * *

E. Possession of marijuana, or synthetic cannabinoids. (1) Except as provided in Subsections ~~E and F~~ **E, F, and I** of this Section, on a first 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

1 not more than five hundred dollars, imprisoned in the parish jail for not more than
2 six months, or both.

3 (2)(a) Except as provided in ~~Subsection F or G~~ **Subsections F, G, and I** of
4 this Section, on a second conviction for violation of Subsection C of this Section
5 with regard to marijuana, tetrahydrocannabinol or chemical derivatives thereof or
6 synthetic cannabinoids, the offender shall be fined not less than two hundred fifty
7 dollars, nor more than two thousand dollars, imprisoned with or without hard labor
8 for not more than five years, 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~~ **Subsections F, G, and I** of this
14 Section, on a third or subsequent conviction for violation of Subsection C of this
15 Section with regard to marijuana, tetrahydrocannabinol or chemical derivatives
16 thereof, or synthetic cannabinoids the offender shall be sentenced to imprisonment
17 with or without hard labor for not more than twenty years, and may, in addition, be
18 sentenced to pay a fine of not more than five thousand dollars.

19 (4) ~~A~~ **Except as provided in R.S. 40:966(I), a** conviction for the violation
20 of any other statute or ordinance with the same elements as R.S. 40:966(C)
21 prohibiting the possession of marijuana, tetrahydrocannabinol or chemical
22 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 * * *

26 **I.(1) On a first conviction for violation of Subsection C of this Section**
27 **with regard to marijuana, tetrahydrocannabinol, or chemical derivatives**
28 **thereof, wherein the offender possesses twenty-eight grams or less, the offender**
29 **shall be fined not less than fifty dollars nor more than one hundred dollars.**

1 (2) On a second conviction for violation of Subsection C of this Section
 2 with regard to marijuana, tetrahydrocannabinol, or chemical derivatives
 3 thereof, wherein the offender possesses twenty-eight grams or less, the offender
 4 shall be fined not less than one hundred dollars nor more than five hundred
 5 dollars, imprisoned in the parish jail for not more than thirty days, or both.

6 (3) On a third or subsequent conviction for violation of Subsection C of
 7 this Section with regard to marijuana, tetrahydrocannabinol, or chemical
 8 derivatives thereof, wherein the offender possesses twenty-eight grams or less,
 9 the offender shall be fined not less than five hundred dollars nor more than one
 10 thousand dollars, imprisoned in the parish jail for not more than ninety days,
 11 or both.

* * *

§982. Second or subsequent offenses

14 A. ~~Any~~ Except as provided in Subsection C of this Section, any person
 15 convicted of any offense under this part, if the offense is a second or subsequent
 16 offense, shall be sentenced to a term of imprisonment that is twice that otherwise
 17 authorized or to payment of a fine that is twice that otherwise authorized, or both.
 18 If the conviction is for an offense punishable under R.S. 40:966(B), R.S. 40:967(B),
 19 R.S. 40:968(B) or R.S. 40:969(B), and if it is the offender's second or subsequent
 20 offense, the court may impose in addition to any term of imprisonment and fine,
 21 twice the special parole term otherwise authorized.

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

29 C. This Section shall not apply to an offense punishable under R.S.

1 **40:966(D).**

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

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

DIGEST

SB 241 Original

2015 Regular Session

Morrell

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 provides that on a first conviction for violation of present law with regard to marijuana, tetrahydrocannabinol, or chemical derivatives thereof, for the possession of 28 grams or less, the offender is to be fined not less than \$50 nor more than \$100.

Proposed law provides that on a second conviction for violation of present law with regard to marijuana, tetrahydrocannabinol, or chemical derivatives thereof, for the possession of 28 grams or less, the offender is to be fined not less than \$100 nor more than \$500, or imprisoned in the parish jail for not more than 30 days, or both.

Proposed law provides that on a third or subsequent conviction for violation of present law with regard to marijuana, tetrahydrocannabinol, or chemical derivatives thereof, for the possession of 28 grams or less, the offender is to be fined not less than \$500 nor more than \$1,000, or imprisoned in the parish jail for not more than 90 days, or both.

Proposed law provides that a conviction pursuant to proposed law for possession of 28 grams or less of marijuana, tetrahydrocannabinol, or chemical derivatives thereof cannot be considered as a prior conviction for the purpose of any present law relative to penalties for second, third, or subsequent offenses, for the purpose of any present law relating to habitual offenders, or for providing enhanced penalties.

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

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