Senate Bill 77

By: Senators Jones II of the 22nd, Anderson of the 43rd, Harrell of the 40th, Parent of the 42nd, Butler of the 55th and others

## A BILL TO BE ENTITLED AN ACT

- 1 To amend Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to
- 2 controlled substances, so as to provide that possession of certain quantities of marijuana
- 3 constitutes a misdemeanor; to revise provisions regarding punishment; to amend Title 15,
- 4 Title 16, Chapter 7 of Title 17, and Code Section 36-32-6 of the Official Code of Georgia
- 5 Annotated, relating to courts, crimes and offenses, pretrial proceedings, and municipal court
- 6 jurisdiction in marijuana possession cases, respectively, so as to provide for conforming
- 7 cross-references; to provide for related matters; to repeal conflicting laws; and for other
- 8 purposes.

## 9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **PART I** 

- 11 **SECTION 1-1.**
- 12 Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to controlled
- 13 substances, is amended by revising subsection (b) of Code Section 16-13-2, relating to
- 14 conditional discharge for possession of controlled substances as first offense and certain
- 15 nonviolent property crimes, dismissal of charges, and restitution to victims, as follows:

16 "(b) Notwithstanding any law to the contrary, any person who is charged with possession 17 of marijuana, which possession is of one ounce or less, It shall be unlawful for any person 18 to possess or have under his or her control two ounces or less of marijuana. Any person 19 who violates this subsection shall be guilty of a misdemeanor and, upon conviction thereof, 20 shall be punished as follows: 21 (1) If the aggregate weight is one-half ounce or less, he or she shall be punished by a fine 22 not to exceed \$300.00; and 23 (2) If the aggregate weight is at least one-half ounce but not more than two ounces, he 24 or she shall be punished by imprisonment for a period not to exceed 12 months or a fine 25 not to exceed \$1,000.00, or both, or public works community service not to exceed 12 26 months."

PART II

28 **SECTION 2-1.** 

- 29 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising
- 30 subsection (b) of Code Section 15-7-4, relating to state court jurisdiction, as follows:
- 31 "(b) Each state court shall have jurisdiction, within the territorial limits of the county or
- 32 counties for which it was created and concurrent with other courts having such jurisdiction,
- 33 over possession of one ounce or less of marijuana, in accordance with Code Sections
- 34 Section 16-13-2 and 16-13-30."

35 **SECTION 2-2.** 

- 36 Said title is further amended by revising paragraph (1) of subsection (a) of Code Section
- 37 15-9-30.6, relating to probate court jurisdiction over certain drug and alcohol offenses, as
- 38 follows:

39 "(1) Possession of one ounce or less of marijuana, in accordance with Code Sections

40 <u>Section</u> 16-13-2 and 16-13-30; and"

41 **SECTION 2-3.** 

- 42 Said title is further amended by revising subsection (a) and paragraph (1) of subsection (c)
- 43 of Code Section 15-10-260, relating to magistrate court jurisdiction and penalties, as follows:
- 44 "(a) This article governs trials of misdemeanor violations of Code Sections 16-13-30,
- 45 16-13-2, 16-8-14, 16-8-14.1, 3-3-23, and 16-7-21."
- 46 "(1) For possession of less than one ounce of marijuana, as provided in subsection (b) of
- 47 Code Section 16-13-2;"

48 **SECTION 2-4.** 

- 49 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
- 50 amended by revising paragraph (4) of subsection (b) of Code Section 16-11-106, relating to
- 51 possession of firearm or knife during the commission or attempt to commit certain crimes,
- 52 as follows:
- 53 "(4) Any crime involving the possession, manufacture, delivery, distribution, dispensing,
- administering, selling, or possession with intent to distribute any controlled substance or
- 55 marijuana as provided in Code Section Sections 16-13-2 and 16-13-30, any counterfeit
- substance as defined in Code Section 16-13-21, or any noncontrolled substance as
- 57 provided in Code Section 16-13-30.1; or"

58 **SECTION 2-5.** 

- 59 Said title is further amended by revising subparagraph (a)(2)(B) of Code Section 16-13-5,
- 60 relating to immunity from arrest or prosecution for persons seeking medical assistance for
- 61 drug overdose, as follows:

62 "(B) A violation of paragraph (1) of subsection (j) (b) of Code Section 16-13-30

63 <u>16-13-2</u> for possession of less than one ounce of marijuana; or"

## **SECTION 2-6.**

- 65 Chapter 7 of Title 17 of the Official Code of Georgia Annotated, relating to pretrial
- 66 proceedings, is amended by revising Code Section 17-7-72, relating to jurisdiction of probate
- 67 courts to try certain drug and alcohol offenses, as follows:
- 68 "17-7-72.
- 69 In probate courts which have jurisdiction over misdemeanor possession of marijuana in
- accordance with Code Sections Section 16-13-2 and 16-13-30 and certain misdemeanor
- violations of Code Section 3-3-23 pursuant to Code Section 15-9-30.6, the following
- offenses may be tried upon a summons or citation without an accusation:
- 73 (1) Possession of one ounce or less of marijuana, in accordance with Code Sections
- 74 <u>Section</u> 16-13-2 and 16-13-30; and
- 75 (2) Any violation of paragraph (2) of subsection (a) of Code Section 3-3-23 which is
- punishable as a misdemeanor, but not violations punishable as high and aggravated
- 77 misdemeanors."

## 78 **SECTION 2-7.**

- 79 Code Section 36-32-6 of the Official Code of Georgia Annotated, relating to municipal court
- 80 jurisdiction in marijuana possession cases, is amended by revising subsections (a) and (c) as
- 81 follows:
- 82 "(a) The municipal court of any municipality is granted jurisdiction to try and dispose of
- cases where a person is charged with the misdemeanor possession of one ounce or less of
- 84 marijuana if the offense occurred within the corporate limits of such municipality. The
- 85 jurisdiction of any such court shall be concurrent with the jurisdiction of any other courts
- 86 within the county having jurisdiction to try and dispose of such cases."

87 "(c) Any defendant charged with possession of an ounce or less of marijuana in a 88 municipal court shall be entitled on request to have the case against him or her transferred 89 to the court having general misdemeanor jurisdiction in the county wherein the alleged 90 offense occurred."

91 PART III

92 **SECTION 3-1.** 

93 All laws and parts of laws in conflict with this Act are repealed.