

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:

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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.”~~

27 **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 Section 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,
54 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
56 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:

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.