

House Bill 388

By: Representatives Alexander of the 66th, Mitchell of the 88th, Frye of the 122nd, Roberts of the 52nd, McClain of the 109th, 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 constitute a misdemeanor; to change provisions relating to punishment; to amend Title 15,
4 Title 16, Chapter 7 of Title 17, and Article 1 of Chapter 32 of Title 36 of the Official Code
5 of Georgia Annotated, relating to courts, crimes and offenses, pretrial proceedings, and
6 general provisions regarding municipal courts, 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, as follows:

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16 "(b) Notwithstanding any law to the contrary, it shall not be a criminal offense for any
17 person who is charged with possession of marijuana, which possession is of one ounce or
18 less, shall be guilty of a misdemeanor and punished by imprisonment for a period not to
19 exceed 12 months or a fine not to exceed \$1,000.00, or both, or public works not to exceed
20 12 months to possess less than one ounce of marijuana."

21 **SECTION 1-2.**

22 Said chapter is further amended by revising subsection (j) of Code Section 16-13-30, relating
23 to purchase, possession, manufacture, distribution, or sale of controlled substances or
24 marijuana, as follows:

25 "(j)(1) It shall be unlawful for any person to possess, have under his or her control,
26 manufacture, deliver, distribute, dispense, administer, purchase, sell, or possess with
27 intent to distribute more than one ounce of marijuana.

28 (2) Except as otherwise provided in subsection (c) of Code Section 16-13-31 ~~or in Code~~
29 ~~Section 16-13-2~~, any person who violates this subsection shall be guilty of a felony and,
30 upon conviction thereof, shall be punished by imprisonment for not less than one year nor
31 more than ten years."

32 **PART II**

33 **SECTION 2-1.**

34 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising
35 Code Section 15-7-4, relating to state court jurisdiction, as follows:

36 "15-7-4.

37 (a) Each state court shall have jurisdiction, within the territorial limits of the county or
38 counties for which it was created and concurrent with the superior courts, over the
39 following matters:

- 40 (1) The trial of criminal cases below the grade of felony;
- 41 (2) The trial of civil actions without regard to the amount in controversy, except those
- 42 actions in which exclusive jurisdiction is vested in the superior courts;
- 43 (3) The hearing of applications for and the issuance of arrest and search warrants;
- 44 (4) The holding of courts of inquiry;
- 45 (5) The punishment of contempt by fines not exceeding \$1,000.00, by imprisonment not
- 46 exceeding 20 days, or both; and
- 47 (6) Review of decisions of other courts as may be provided by law.
- 48 ~~(b) Each state court shall have jurisdiction, within the territorial limits of the county or~~
- 49 ~~counties for which it was created and concurrent with other courts having such jurisdiction,~~
- 50 ~~over possession of one ounce or less of marijuana, in accordance with Code Sections~~
- 51 ~~16-13-2 and 16-13-30.~~
- 52 (c) Each judge of the state court shall have the authority to perform any judicial act which
- 53 he or she is lawfully entitled to perform, regardless of where such judge is located when
- 54 such judicial act is performed."

55 **SECTION 2-2.**

56 Said title is further amended by revising subsection (a) of Code Section 15-9-30.6, relating

57 to probate court jurisdiction over certain drug and alcohol offenses, as follows:

58 "(a) Subject to the provisions of subsection (c) of this Code section, in addition to any

59 other jurisdiction vested in the probate courts, probate courts which have jurisdiction over

60 misdemeanor traffic offenses in accordance with Code Section 40-13-21 shall have the

61 right and power to conduct trials, receive pleas of guilty, and impose sentence upon

62 defendants for ~~the following offenses:~~

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

64 ~~16-13-2 and 16-13-30; and~~

65 ~~(2) Any~~ any violation of paragraph (2) of subsection (a) of Code Section 3-3-23 which
 66 is punishable as a misdemeanor, but not violations punishable as high and aggravated
 67 misdemeanors."

68 **SECTION 2-3.**

69 Said title is further amended by revising subsection (a) and paragraph (1) of subsection (c)
 70 of Code Section 15-10-260, relating to magistrate court jurisdiction, as follows:

71 "(a) This article governs trials of misdemeanor violations of Code Sections ~~16-13-30,~~
 72 ~~16-13-2,~~ 16-8-14, 16-8-14.1, 3-3-23, and 16-7-21."

73 "(1) Reserved ~~For possession of less than one ounce of marijuana, as provided in~~
 74 ~~subsection (b) of Code Section 16-13-2;"~~

75 **SECTION 2-4.**

76 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
 77 amended by revising subparagraph (a)(2)(B) of Code Section 16-13-5, relating to immunity
 78 from arrest or prosecution for persons seeking medical assistance for a drug overdose, as
 79 follows:

80 "(B) Reserved ~~A violation of paragraph (1) of subsection (j) of Code Section 16-13-30~~
 81 ~~for possession of less than one ounce of marijuana; or"~~

82 **SECTION 2-5.**

83 Chapter 7 of Title 17 of the Official Code of Georgia Annotated, relating to pretrial
 84 proceedings, is amended by revising Code Section 17-7-72, relating to jurisdiction of probate
 85 courts to try certain drug and alcohol offenses, as follows:

86 "17-7-72.

87 In probate courts which have jurisdiction over ~~misdemeanor possession of marijuana in~~
 88 ~~accordance with Code Sections 16-13-2 and 16-13-30 and certain misdemeanor violations~~

89 of Code Section 3-3-23 pursuant to Code Section 15-9-30.6, the following offenses may
90 be tried upon a summons or citation without an accusation:

91 (1) ~~Reserved Possession of one ounce or less of marijuana, in accordance with Code~~
92 ~~Sections 16-13-2 and 16-13-30; and~~

93 (2) Any violation of paragraph (2) of subsection (a) of Code Section 3-3-23 which is
94 punishable as a misdemeanor, but not violations punishable as high and aggravated
95 misdemeanors."

96 **SECTION 2-6.**

97 Article 1 of Chapter 32 of Title 36 of the Official Code of Georgia Annotated, relating to
98 general provisions regarding municipal courts, is amended by repealing Code
99 Section 36-32-6, relating to municipal court jurisdiction in marijuana possession cases, in its
100 entirety and designating said Code section as reserved.

101 **PART III**

102 **SECTION 3-1.**

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