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## DIGEST

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Badon

HB No. 103

**Abstract:** Amends the criminal penalties for second and subsequent convictions of possession of marijuana or synthetic cannabinoids and prohibits the application of the Habitual Offender Law to possession of marijuana or synthetic cannabinoid offenses.

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. In addition, present law required that certain conditions be met if the offender is placed on probation, including substance abuse treatment and community service.
- (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.

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

Proposed law amends the penalties for possession of marijuana or synthetic cannabinoids 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 for not more than one year, or both. In addition, proposed law repeals the provision which provides for the special conditions of probation for a second offense.
- (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 two 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 five years, or both.

Proposed law removes possession of marijuana or synthetic cannabinoids as a possible offense for which an offender may be sentenced pursuant to the Habitual Offender Law.

Proposed law authorizes a defendant who is incarcerated after having been convicted of and sentenced according to the provisions of present law regarding possession of marijuana or synthetic cannabinoids or present law habitual offender provisions, wherein at least one of the offenses which forms the basis for such sentence is a conviction for possession of marijuana or synthetic cannabinoids pursuant to present law, if the defendant has served at least ½ of the maximum term of imprisonment provided for in proposed law. Proposed law further provides the procedure for such motions to reconsider.

(Amends R.S. 40:966(E) and C.Cr.P. Art. 881.1(A)(1) and (2); Adds R.S. 15:529.1(A)(5) and C.Cr.P. Art. 881.1(A)(5))