

2018 Regular Session

HOUSE BILL NO. 611

BY REPRESENTATIVE JAMES

DRUGS/ILLEGAL: Establishes a civil penalty for marijuana possession

1 AN ACT

2 To enact R.S. 40:966.1, relative to possession of marijuana; to create a civil penalty for  
3 personal possession of marijuana; to limit the ability to impose criminal charges for  
4 personal possession of marijuana under certain conditions; to provide for the  
5 collection of information relative to civil citations; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 40:966.1 is hereby enacted to read as follows:

8 §966.1. Civil penalty for possession of marijuana

9 A. As used in this Section, the following terms shall have the following  
10 meanings:

11 (1) "Marijuana accessory" means paraphernalia for the ingestion, use,  
12 inhalation, preparation for personal use, or storage of a personal use quantity of  
13 marijuana.

14 (2) "Personal use quantity of marijuana" means one ounce or less of  
15 marijuana as defined in R.S. 40:961(25) except that no more than five grams of the  
16 marijuana may be resin extracted from or concentrates derived from marijuana.

17 "Personal use quantity of marijuana" does not include marijuana that is growing or  
18 the estimated weight of any non-marijuana ingredients combined with marijuana,  
19 such as ingredients added to prepare food or drink.

1           B.(1) A person who knowingly and unlawfully possesses a personal use  
2           quantity of marijuana or a marijuana accessory commits a civil violation and shall  
3           be assessed a civil penalty of not more than one hundred dollars.

4           (2) The revenue generated from civil penalties imposed under the provisions  
5           of this Section shall be released to or retained by the municipality where the  
6           violation occurred.

7           C.(1) Except as otherwise provided in this Section, neither the state nor any  
8           of its political subdivisions shall impose any form of penalty on a person for  
9           possessing a personal use quantity of marijuana or a marijuana accessory, nor shall  
10          any penalties or obligations exceeding those provided in this Section be imposed by  
11          the state nor any of its political subdivisions, solely for having cannabinoids or  
12          cannabinoid metabolites in the urine, blood, sweat, hair, fingernails, toenails, or other  
13          tissue or fluid of the human body.

14          (2) A determination of civil violation under this Section shall not be  
15          considered a drug offense pursuant to this Part or as defined in 21 CFR Chapter II.

16          (3) Possession of a personal use quantity of marijuana or a marijuana  
17          accessory or the presence of cannabainoids or cannabinoid metabolites in the urine,  
18          blood, sweat, hair, fingernails, toenails, or other tissue or fluid of the human body or  
19          a conviction, citation, admission, or plea bargain thereof, shall not constitute grounds  
20          for denying a person student financial aid, public housing, any form of public  
21          financial assistance including unemployment benefits, or the right to operate a motor  
22          vehicle, or disqualifying a person from serving as a foster parent or adoptive parent.

23          (4) No violation of this Section shall be considered a violation of parole or  
24          probation.

25          D. Except as otherwise provided in this Subsection, no person shall be  
26          subject to arrest for a violation of this Section. An individual cited for a violation of  
27          this Section shall be released on a summons if the law enforcement officer does not  
28          have lawful grounds for arrest for a different offense.

1           E.(1) Nothing in this Section shall be construed to repeal or modify any law  
2           concerning the medical use of marijuana or tetrahydrocannabinol in any other form,  
3           such as Marinol, or the possession of more than a personal use quantity of marijuana,  
4           or selling, manufacturing, or trafficking of marijuana.

5           (2) Nothing in this Section shall prohibit a political subdivision of the state  
6           from enacting ordinances or bylaws regulating or prohibiting the consumption of  
7           marijuana or tetrahydrocannabinol in public places and providing for additional  
8           penalties for the public use of marijuana, provided that any such additional penalties  
9           are not greater than those related to the public consumption of alcohol.

10           F.(1) Except as otherwise provided in this Subsection:

11           (a) No record of a violation of this Section shall be recorded in any database  
12           of criminal offenders.

13           (b) No record that includes personally identifiable information resulting from  
14           a violation of this Section shall be made accessible to the public, a federal agency,  
15           or an agency from another state or country.

16           (2) Every state, parish, or local law enforcement agency that collects and  
17           reports data for the Uniform Crime Reports program shall collect data on the number  
18           of violations of this Section and report the data to the Department of Public Safety  
19           and Corrections. The Department of Public Safety and Corrections shall compile the  
20           data collected pursuant to this Paragraph and make it available free of cost to the  
21           public. A law enforcement agency shall update the data annually and shall make it  
22           available on the agency's public internet website.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 611 Original

2018 Regular Session

James

**Abstract:** Creates a civil penalty for possession of a personal use quantity marijuana not to exceed \$100 and provides for the collection of data pertaining to civil fines issued.

Present law imposes criminal penalties for possession of marijuana. Proposed law retains present law.

Proposed law creates a civil penalty of \$100 for possession of no more than one ounce of marijuana (personal use quantity). Provides that the revenue generated shall be paid to the municipality where the violation occurred. Limits the state's ability to impose any additional penalty on a person for possessing a personal use quantity of marijuana or having cannabinoids in their body tissues or fluids. Prohibits a civil violation from being considered a state or federal drug offense or parole violation or grounds for denying student financial aid, public housing, public financial assistance, the right to operate a motor vehicle or serve as a foster or adoptive parent.

Proposed law provides that a person shall not be subject to arrest for possession of personal use quantity of marijuana.

Proposed law does not repeal or modify any law concerning the medical use of marijuana, possession of more than one ounce of marijuana, or the selling, manufacturing, or trafficking of marijuana. Does not prohibit a political subdivision of the state from enacting laws regulating or prohibiting the consumption of marijuana in public places, provided such penalties are not greater than those related to the public consumption of alcohol.

Proposed law provides that no record of violation of proposed law shall be recorded in a database of criminal offenders. Provides that no record including personally identifiable information shall be made accessible to the public, a federal agency, or an agency from another state or country. However, does require all state, parish, and local law enforcement agencies that collect and report data for the Uniform Crime Reports program to collect data on the number of violations of proposed law and report it to the Dept. of Public Safety and Corrections to compile and publish on the internet.

(Adds R.S. 40:966.1)