

Regular Session, 2012

SENATE BILL NO. 67

BY SENATOR MORRELL

CRIME/PUNISHMENT. Increases the mandatory sentence for possession of heroin. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 40:966(C)(1) and (D)(1) and to enact R.S. 40:966(C)(4) and
3 (D)(2), relative to the Uniform Controlled Dangerous Substances Law; to increase
4 penalties for certain violations involving heroin; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 40:966(C)(1) and (D)(1) are hereby amended and reenacted and R.S.
7 40:966(C)(4) and (D)(2) are hereby enacted to read as follows:

8 §966. Penalty for distribution or possession with intent to distribute narcotic drugs
9 listed in Schedule I; possession of marijuana, possession of synthetic
10 cannabinoids

11 * * *

12 C. Possession. It is unlawful for any person knowingly or intentionally to
13 possess a controlled dangerous substance classified in Schedule I unless such
14 substance was obtained directly, or pursuant to a valid prescription or order, from a
15 practitioner or as provided in R.S. 40:978, while acting in the course of his
16 professional practice, or except as otherwise authorized by this Part. Any person who
17 violates this Subsection with respect to:

1 (1) A substance classified in Schedule I which is a narcotic drug (all
2 substances in Schedule I preceded by an asterisk), **except heroin as provided for**
3 **in Paragraph (4) of this Subsection**, shall be imprisoned at hard labor for not less
4 than four years nor more than ten years and may, in addition, be required to pay a
5 fine of not more than five thousand dollars.

6 * * *

7 **(4) A substance classified in Schedule I which is the narcotic drug heroin,**
8 **shall be imprisoned at hard labor for not less than six years nor more than**
9 **fifteen years and may, in addition, be required to pay a fine of not more than**
10 **seventy-five hundred dollars.**

11 D. Other penalties for possession. (1) Except as otherwise authorized in this
12 Part:

13 (a) Any person who knowingly or intentionally possesses twenty-eight grams
14 or more, but less than two hundred grams, of a narcotic drug (all substances in
15 Schedule I preceded by an asterisk "*"), **except heroin as provided for in**
16 **Paragraph (2) of this Subsection**, shall be sentenced to serve a term of
17 imprisonment at hard labor of not less than five years, nor more than thirty years, and
18 to pay a fine of not less than fifty thousand dollars, nor more than one hundred fifty
19 thousand dollars.

20 (b) Any person who knowingly or intentionally possesses two hundred grams
21 or more, but less than four hundred grams, of a narcotic drug (all substances in
22 Schedule I preceded by an asterisk "*"), **except heroin as provided for in**
23 **Paragraph (2) of this Subsection**, shall be sentenced to serve a term of
24 imprisonment at hard labor of not less than ten years, nor more than thirty years, and
25 to pay a fine of not less than one hundred thousand dollars, nor more than three
26 hundred fifty thousand dollars.

27 (c) Any person who knowingly or intentionally possesses four hundred grams
28 or more of a narcotic drug (all substances in Schedule I preceded by an asterisk "*"),
29 **except heroin as provided for in Paragraph (2) of this Subsection**, shall be

1 sentenced to serve a term of imprisonment at hard labor of not less than fifteen years,
2 nor more than thirty years, and to pay a fine of not less than two hundred fifty
3 thousand dollars, nor more than six hundred thousand dollars.

4 **(2) Except as otherwise authorized in this Part with regard to heroin:**

5 **(a) Any person who knowingly or intentionally possesses twenty-eight**
6 **grams or more, but less than two hundred grams, of the Schedule I narcotic**
7 **drug heroin shall be sentenced to serve a term of imprisonment at hard labor**
8 **of not less than eight years, nor more than forty-five years, and to pay a fine of**
9 **not less than seventy-five thousand dollars, nor more than two hundred twenty-**
10 **five thousand dollars.**

11 **(b) Any person who knowingly or intentionally possesses two hundred**
12 **grams or more, but less than four hundred grams, of the Schedule I narcotic**
13 **drug heroin shall be sentenced to serve a term of imprisonment at hard labor**
14 **of not less than fifteen years, nor more than forty-five years, and to pay a fine**
15 **of not less than one hundred fifty thousand dollars, nor more than five hundred**
16 **twenty-five thousand dollars.**

17 **(c) Any person who knowingly or intentionally possesses four hundred**
18 **grams or more of the Schedule I narcotic drug heroin shall be sentenced to**
19 **serve a term of imprisonment at hard labor of not less than twenty-five years,**
20 **nor more than forty-five years, and to pay a fine of not less than three hundred**
21 **seventy-five thousand dollars, nor more than nine hundred thousand dollars.**

22 * * *

23 Section 2. This Act shall become effective upon signature by the governor or, if not
24 signed by the governor, upon expiration of the time for bills to become law without signature
25 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
26 vetoed by the governor and subsequently approved by the legislature, this Act shall become
27 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alden A. Clement, Jr.

DIGEST

Present law provides that the penalty for possession of any Schedule I narcotic drug (including heroin) is imprisonment at hard labor for not less than four years nor more than 10 years, and a possible fine of up to \$5,000.

Proposed law provides that the penalty for possession of heroin is imprisonment for not less than six years nor more than 15 years, and a possible fine of up to \$7,500.

Proposed law otherwise retains present law as to the penalties for possession of other Schedule I narcotic drugs.

Present law provides that, except as otherwise authorized by present law:

1. The penalty for possession of 28 grams or more, but less than 200 grams, of a Schedule I narcotic drug is imprisonment at hard labor for not less than five years, nor more than 30 years, and a fine of not less than \$50,000 nor more than \$150,000.
2. The penalty for possession of 200 grams or more, but less than 400 grams, of a Schedule I narcotic drug is imprisonment at hard labor for not less than 10 years nor more than 30 years, and a fine of not less than \$100,000 nor more than \$350,000.
3. The penalty for possession of 400 grams or of a Schedule I narcotic drug is imprisonment at hard labor for not less than 15 years nor more than 30 years, and a fine of not less than \$250,000 nor more than \$600,000.

Proposed law provides that, except as otherwise authorized by present law:

1. The penalty for possession of 28 grams or more, but less than 200 grams, of heroin is imprisonment at hard labor for not less than eight years, nor more than 45 years, and a fine of not less than \$75,000 nor more than \$225,000.
2. The penalty for possession of 200 grams or more, but less than 400 grams, of heroin is imprisonment at hard labor for not less than 15 years nor more than 45 years, and a fine of not less than \$150,000 nor more than \$525,000.
3. The penalty for possession of 400 grams or more of heroin is imprisonment at hard labor for not less than 25 years nor more than 45 years, and a fine of not less than \$375,000 nor more than \$900,000.

Proposed law otherwise retains present law as to the penalties for possession of other Schedule I narcotic drugs.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 40:966(C)(1) and (D)(1); adds R.S. 40:966(C)(4) and (D)(2))