

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4

A Bill

SENATE BILL 736

5 By: Senator B. Pritchard
6

For An Act To Be Entitled

8 AN ACT TO ESTABLISH CRIMINAL PENALTIES FOR THE
9 POSSESSION OF LESS THAN FOUR OUNCES OF A SCHEDULE VI
10 CONTROLLED SUBSTANCE; AND FOR OTHER PURPOSES.
11

Subtitle

12
13 TO ESTABLISH CRIMINAL PENALTIES FOR THE
14 POSSESSION OF LESS THAN FOUR OUNCES OF A
15 SCHEDULE VI CONTROLLED SUBSTANCE.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code § 5-64-401(c), regarding the possession of a
22 counterfeit or controlled substance, is amended to read as follows:

23 (c) Possession of Counterfeit or Controlled Substance.

24 (1) It is unlawful for any person to possess a controlled
25 substance or counterfeit substance unless the controlled substance or
26 counterfeit substance was obtained:

27 (A) Directly from or pursuant to a valid prescription or
28 an order of a practitioner while acting in the course of his or her
29 professional practice; or

30 (B) As otherwise authorized by this chapter.

31 (2) Any person who violates this subsection with respect to:

32 (A) A controlled substance classified in Schedule I or
33 Schedule II is guilty of a Class C felony;

34 (B) Any other controlled substance, except possession of
35 less than four ounces (4 oz.) of a Schedule VI controlled substance, first
36 offense, is guilty of a Class A misdemeanor;



1 (C) Any other controlled substance, except possession of
2 less than four ounces (4 oz.) of a Schedule VI controlled substance, second
3 offense, is guilty of a Class D felony; and

4 (D) Any other controlled substance, except possession of
5 less than four ounces (4 oz.) of a Schedule VI controlled substance, third or
6 subsequent offense, is guilty of a Class C felony.

7 (3) For purposes of this subsection, an offense is considered a
8 second or subsequent offense if, before his or her conviction for the
9 offense, the person has been convicted for an offense under this subsection
10 ~~(e)~~ or under any equivalent penal statute of the United States or of any
11 state.

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13 SECTION 2. Arkansas Code § 5-64-401(d)(3)(A)(vii), regarding the
14 amount of marijuana necessary to lead to the rebuttable presumption of intent
15 to deliver, is amended to read as follows:

16 (vii) Marijuana - ~~one ounce (1 oz.)~~ four ounces (4 oz.) or more;

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18 SECTION 3. Arkansas Code Title 5, Chapter 64, Subchapter 4 is amended
19 to add a new section to read as follows:

20 5-64-419. Possession of a Schedule VI controlled substance.

21 (a) It is a Class A misdemeanor upon conviction if a person knowingly
22 possesses less than four ounces (4 oz.) of a Schedule VI controlled
23 substance.

24 (b) It is a Class D felony upon conviction if a person knowingly
25 possesses one ounce (1 oz.) or more but less than four ounces (4 oz.) of a
26 Schedule VI controlled substance if the person has two (2) or more previous
27 convictions under this section or § 5-64-401(c).

28 (c) A person who unlawfully possesses four ounces (4 oz.) or more of a
29 Schedule VI controlled substance shall be punished under § 5-64-401.

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31 SECTION 4. Arkansas Code § 16-10-305(a)(6), effective until January 1,
32 2012, regarding court costs, is amended to read as follows:

33 (6) In city court, seventy-five dollars (\$75.00) for offenses that are
34 misdemeanors or violations under state law, excluding violations of:

- 35 (A) The Omnibus DWI Act, § 5-65-101 et seq.;
- 36 (B) The Underage DUI Law, § 5-65-301 et seq.;

- 1 (C) Section 5-75-101 et seq.;
- 2 (D) Section 5-76-101 et seq.;
- 3 (E) Section 27-23-114; or
- 4 (F) Section 15-42-127; ~~and~~

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6 SECTION 5. Arkansas Code § 16-10-305(a)(7), effective until January 1,
7 2012, regarding court costs, is amended to read as follows:

8 (7) In city court, fifty dollars (\$50.00) for traffic offenses that
9 are misdemeanors or violations under state law or local ordinance, excluding:

- 10 (A) The Omnibus DWI Act, § 5-65-101 et seq.;
- 11 (B) The Underage DUI Law, § 5-65-301 et seq.;
- 12 (C) Section 5-75-101 et seq.;
- 13 (D) Section 5-76-101 et seq.;
- 14 (E) Section 27-23-114; or
- 15 (F) Section 15-42-127; and

16

17 SECTION 6. Arkansas Code § 16-10-305(a), effective until January 1,
18 2012, is amended to add an additional subdivision to read as follows:

19 (8)(A) For knowingly possessing less than four ounces (4 oz.) of a
20 Schedule VI controlled substance in circuit, district, or city court, three
21 hundred dollars (\$300).

22 (B) Two hundred dollars (\$200) of the court costs collected
23 under this subdivision (8) shall be remitted to the Treasurer of State by the
24 court clerk for deposit into the Drug Abuse Prevention and Treatment Fund for
25 the Office of Alcohol and Drug Abuse Prevention to be used exclusively for
26 drug courts or other substance abuse and prevention activities.

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28 SECTION 7. Arkansas Code § 16-10-305(a), effective January 1, 2012, is
29 amended to read as follows:

30 (a) There shall be levied and collected the following court costs from
31 each defendant upon each conviction, each plea of guilty or nolo contendere,
32 or each forfeiture of bond:

33 (1) For misdemeanor or felony violations of state law, excluding
34 violations of the Omnibus DWI Act, § 5-65-101 et seq., in circuit court, one
35 hundred fifty dollars (\$150);

36 (2) For offenses that are misdemeanors or violations of state

1 law, excluding violations of the Omnibus DWI Act, § 5-65-101 et seq., in
2 district court, one hundred dollars (\$100);

3 (3) For traffic offenses that are misdemeanors or violations
4 under state law or town or city ordinance, excluding violations of the
5 Omnibus DWI Act, § 5-65-101 et seq., in district court, seventy-five dollars
6 (\$75.00);

7 (4) For nontraffic offenses that are misdemeanors or violations
8 under town, city, or county ordinance in district court, twenty-five dollars
9 (\$25.00); ~~and~~

10 (5) For violations of the Omnibus DWI Act, § 5-65-101 et seq.,
11 in circuit court or district court, three hundred dollars (\$300)~~+~~; and

12 (6)(A) For knowingly possessing less than four ounces (4 oz.) of
13 a Schedule VI controlled substance in circuit, district, or city court, three
14 hundred dollars (\$300).

15 (B) Two hundred dollars (\$200) of the court costs
16 collected under this subdivision (6) shall be remitted to the Treasurer of
17 State by the court clerk for deposit into the Drug Abuse Prevention and
18 Treatment Fund for the Office of Alcohol and Drug Abuse Prevention to be used
19 exclusively for drug courts or other substance abuse and prevention
20 activities.

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