

Senate Bill 30

By: Senators Jones II of the 22nd, Butler of the 55th, Parent of the 42nd, Halpern of the 39th, Esteves of the 6th 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 Code Section 36-32-6 of the Official Code of Georgia  
5 Annotated, relating to courts, crimes and offenses, pretrial proceedings, and municipal court  
6 jurisdiction in marijuana possession cases, 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 possession of marijuana and conditional discharge for possession of controlled substances  
15 as first offense and certain nonviolent property crimes, as follows:

16 ~~“(b) Notwithstanding any law to the contrary, any person who is charged with possession~~  
17 ~~of marijuana, which possession is of one ounce or less, It shall be unlawful for any person~~  
18 ~~to possess or have under his or her control two ounces or less of marijuana. Any person~~  
19 ~~who violates this subsection shall be guilty of a misdemeanor, and upon conviction thereof,~~  
20 ~~shall be punished as follows:~~

21 ~~(1) If the aggregate weight is one-half ounce or less, he or she shall be punished by a fine~~  
22 ~~not to exceed \$300.00; and~~

23 ~~(2) If the aggregate weight is at least one-half ounce but not more than two ounces, he~~  
24 ~~or she shall be punished~~ by imprisonment for a period not to exceed 12 months or a fine  
25 not to exceed \$1,000.00, or both, or ~~public works~~ community service not to exceed 12  
26 months.”

27 **SECTION 1-2.**

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

31 ~~“(j)(1) It shall be unlawful for any person to possess, have under his or her control,~~  
32 ~~manufacture, deliver, distribute, dispense, administer, purchase, sell, or possess with~~  
33 ~~intent to distribute two ounces or more of marijuana or possess with the intent to~~  
34 ~~distribute marijuana.~~

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

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PART II  
**SECTION 2-1.**

41 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising  
42 subsection (b) of Code Section 15-7-4, relating to state court jurisdiction, as follows:

43 "(b) Each state court shall have jurisdiction, within the territorial limits of the county or  
44 counties for which it was created and concurrent with other courts having such jurisdiction,  
45 over possession of ~~one ounce or less of marijuana~~, in accordance with Code Sections  
46 Section 16-13-2 and 16-13-30."

47

**SECTION 2-2.**

48 Said title is further amended by revising paragraph (1) of subsection (a) of Code Section  
49 15-9-30.6, relating to probate court jurisdiction over certain drug and alcohol offenses, as  
50 follows:

51 "(1) Possession of ~~one ounce or less of marijuana~~, in accordance with Code Sections  
52 Section 16-13-2 and 16-13-30; and"

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**SECTION 2-3.**

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

56 "(a) This article governs trials of misdemeanor violations of Code Sections ~~16-13-30;~~  
57 16-13-2, 16-8-14, 16-8-14.1, 3-3-23, and 16-7-21."

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

60 **SECTION 2-4.**

61 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is  
62 amended by revising paragraph (4) of subsection (b) of Code Section 16-11-106, relating to  
63 possession of a firearm or knife during the commission or attempt to commit certain crimes,  
64 as follows:

65 "(4) Any crime involving the possession, manufacture, delivery, distribution, dispensing,  
66 administering, selling, or possession with intent to distribute any controlled substance or  
67 marijuana as provided in Code ~~Section~~ Sections 16-13-2 and 16-13-30, any counterfeit  
68 substance as defined in Code Section 16-13-21, or any noncontrolled substance as  
69 provided in Code Section 16-13-30.1; or"

70 **SECTION 2-5.**

71 Said title is further amended by revising subparagraph (a)(2)(B) of Code Section 16-13-5,  
72 relating to immunity from arrest or prosecution for persons seeking medical assistance for  
73 a drug overdose, as follows:

74 "(B) A violation of ~~paragraph (1)~~ of subsection (j) (b) of Code Section ~~16-13-30~~  
75 16-13-2 for possession of ~~less than one ounce of~~ marijuana; or"

76 **SECTION 2-6.**

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

80 "17-7-72.

81 In probate courts which have jurisdiction over misdemeanor possession of marijuana in  
82 accordance with Code ~~Sections~~ Section 16-13-2 and 16-13-30 and certain misdemeanor  
83 violations of Code Section 3-3-23 pursuant to Code Section 15-9-30.6, the following  
84 offenses may be tried upon a summons or citation without an accusation:

85 (1) Possession of ~~one ounce or less of~~ marijuana, in accordance with Code Sections  
 86 Section 16-13-2 and 16-13-30; and  
 87 (2) Any violation of paragraph (2) of subsection (a) of Code Section 3-3-23 which is  
 88 punishable as a misdemeanor, but not violations punishable as high and aggravated  
 89 misdemeanors."

90 **SECTION 2-7.**

91 Code Section 36-32-6 of the Official Code of Georgia Annotated, relating to municipal court  
 92 jurisdiction in marijuana possession cases, is amended by revising subsections (a) and (c) as  
 93 follows:

94 "(a) The municipal court of any municipality is granted jurisdiction to try and dispose of  
 95 cases where a person is charged with the misdemeanor possession of ~~one ounce or less of~~  
 96 marijuana if the offense occurred within the corporate limits of such municipality. The  
 97 jurisdiction of any such court shall be concurrent with the jurisdiction of any other courts  
 98 within the county having jurisdiction to try and dispose of such cases."

99 "(c) Any defendant charged with possession of ~~an ounce or less of~~ marijuana in a  
 100 municipal court shall be entitled on request to have the case against him or her transferred  
 101 to the court having general misdemeanor jurisdiction in the county wherein the alleged  
 102 offense occurred."

103 **PART III**

104 **SECTION 3-1.**

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