

2015 Regular Session

SENATE BILL NO. 241

BY SENATOR MORRELL

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIME/PUNISHMENT. Provides relative to criminal penalties for marijuana possession.
(gov sig)

AN ACT

To amend and reenact R.S. 40:966(E) and (F), relative to the Uniform Controlled Dangerous Substances Law; to provide relative to penalties for possession of marijuana when the amount possessed is fourteen grams or less; to provide relative to penalties for possession of marijuana when the amount possessed is fourteen grams or more, but less than two and one-half pounds; to provide relative to a cleansing period for certain offenses; to provide relative to the possession of more than two and one-half pounds and less than sixty pounds of marijuana; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:966(E) and (F) are hereby amended and reenacted to read as follows:

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

* * *

E.(1) Possession of marijuana, ~~or synthetic cannabinoids.~~ ~~(1)(a)~~ Except as provided in ~~Subsections E and~~ Subsection F of this Section, on a ~~first~~ conviction for

violation of Subsection C of this Section with regard to marijuana, tetrahydrocannabinol, or chemical derivatives thereof, ~~or synthetic cannabinoids~~ the offender shall be ~~fin~~ed not more than five hundred dollars, imprisoned in the parish jail for not more than six months, or both **punished as follows:**

(i) On a first conviction, wherein the offender possesses fourteen grams or less, the offender shall be fined not more than three hundred dollars, imprisoned in the parish jail for not more than fifteen days, or both.

(ii) On a first conviction, wherein the offender possesses more than fourteen grams, the offender shall be fined not more than five hundred dollars, imprisoned in the parish jail for not more than six months, or both.

(iii) Any person who has been convicted of a violation of the provisions of Item (i) or (ii) of this Subparagraph and who has not been convicted of any other violation of a statute or ordinance prohibiting the possession of marijuana for a period of two years from the date of completion of sentence, probation, parole, or suspension of sentence shall not be eligible to have the conviction used as a predicate conviction for enhancement purposes. The provisions of this Subparagraph shall occur only once with respect to any person.

~~(2)(a)~~ **(b)** Except as provided in Subsection F ~~or G~~ of this Section, on a second conviction for violation of Subsection C of this Section with regard to marijuana, tetrahydrocannabinol or chemical derivatives thereof, ~~or synthetic cannabinoids~~ the offender shall be ~~fin~~ed not less than two hundred fifty dollars, nor more than two thousand dollars, imprisoned with or without hard labor for not more than five years, or both **more than one thousand dollars, imprisoned in the parish jail for not more than six months, or both.**

~~(b)~~ If the court places the offender on probation, the probation shall provide for a minimum condition that he participate in a court-approved substance abuse program and perform four eight-hour days of court-approved community service activities. Any costs associated with probation shall be paid by the offender.

~~(3)~~**(c)(i)** Except as provided in Subsection F ~~or G~~ of this Section, on a third

1 ~~or subsequent~~ conviction for violation of Subsection C of this Section with regard
2 to marijuana, tetrahydrocannabinol or chemical derivatives thereof, ~~or synthetic~~
3 ~~cannabinoids~~ the offender shall be sentenced to imprisonment with or without hard
4 labor for not more than ~~twenty years~~, and may, in addition, ~~be sentenced to pay a fine~~
5 ~~of not more than five thousand dollars~~ **two years, shall be fined not more than two**
6 **thousand five hundred dollars, or both.**

7 **(ii) If the court places the offender on probation, the probation shall**
8 **provide for a minimum condition that he participate in a court-approved**
9 **substance abuse program and perform four eight-hour days of court-approved**
10 **community service activities. Any costs associated with probation shall be paid**
11 **by the offender.**

12 **(d)(i) Except as provided in Subsection F of this Section, on a fourth or**
13 **subsequent conviction for violation of Subsection C of this Section with regard**
14 **to marijuana, tetrahydrocannabinol or chemical derivatives thereof, the**
15 **offender shall be sentenced to imprisonment with or without hard labor for not**
16 **more than eight years, shall be fined not more than five thousand dollars, or**
17 **both.**

18 **(ii) If the court places the offender on probation, the probation shall**
19 **provide for a minimum condition that he participate in a court-approved**
20 **substance abuse program and perform four eight-hour days of court-approved**
21 **community service activities. Any costs associated with probation shall be paid**
22 **by the offender.**

23 ~~(4)(e)~~ **A Except as provided in Item (a)(iii) of this Paragraph, a**
24 conviction for the violation of any other statute or ordinance with the same elements
25 as ~~R.S. 40:966(C)~~ **Subsection C of this Section** prohibiting the possession of
26 marijuana, tetrahydrocannabinol or chemical derivatives thereof, ~~or synthetic~~
27 ~~cannabinoids~~ shall be considered as a prior conviction for the purposes of this
28 Subsection relating to penalties for second, third, or subsequent offenders.

29 ~~(5)(f)~~ **A Except as provided in Item (a)(iii) of this Paragraph, a**

1 conviction for the violation of any other statute or ordinance with the same elements
2 as ~~R.S. 40:966(B)(3)~~ **Paragraph (B)(3) of this Section** prohibiting the distributing
3 or dispensing or possession with intent to distribute or dispense marijuana, of
4 marijuana, tetrahydrocannabinol or chemical derivatives thereof, or synthetic
5 cannabinoids shall be considered as a prior conviction for the purposes of this
6 Subsection relating to penalties for second, third, or subsequent offenders.

7 **(2) Possession of synthetic cannabinoids. (a) Except as provided in**
8 **Subsections F and G of this Section, on a first conviction for violation of**
9 **Subsection C of this Section with regard to synthetic cannabinoids, the offender**
10 **shall be fined not more than five hundred dollars, imprisoned for not more than**
11 **six months, or both.**

12 **(b) Except as provided in Subsections F and G of this Section, on a**
13 **second conviction for violation of Subsection C of this Section with regard to**
14 **synthetic cannabinoids, the offender shall be fined not less than two hundred**
15 **fifty dollars nor more than two thousand dollars, imprisoned with or without**
16 **hard labor for not more than five years, or both.**

17 **(c) Except as provided in Subsections F and G of this Section, on a third**
18 **or subsequent conviction for violation of Subsection C of this Section with**
19 **regard to synthetic cannabinoids, the offender shall be sentenced to**
20 **imprisonment with or without hard labor for not more than twenty years, and**
21 **may, in addition, be fined not more than five thousand dollars.**

22 **(d) A conviction for the violation of any other provision of law or**
23 **ordinance with the same elements as Subsection C of this Section prohibiting**
24 **the possession of synthetic cannabinoids shall be considered a prior conviction**
25 **for the purposes of this Paragraph relating to penalties for second, third, or**
26 **subsequent offenses.**

27 **(e) A conviction for the violation of any other provision of law or**
28 **ordinance with the same elements as Paragraph (B)(3) of this Section**
29 **prohibiting the distributing or dispensing or possession with intent to distribute**

1 or dispense synthetic cannabinoids shall be considered a prior conviction for the
2 purposes of this Paragraph relating to penalties for second, third, or subsequent
3 offenses.

4 (f) If the court places the offender on probation, the probation shall
5 provide for a minimum condition that he participate in a court-approved
6 substance abuse program and perform four eight-hour days of court-approved
7 community service activities. Any costs associated with probation shall be paid
8 by the offender.

9 F. Except as otherwise authorized in this Part:

10 (1) Any person who knowingly or intentionally possesses two and
11 one-half pounds or more, but less than sixty pounds of marijuana,
12 tetrahydrocannabinol or chemical derivatives thereof, or synthetic cannabinoids
13 shall be sentenced to serve a term of imprisonment with or without hard labor
14 of not less than two years, nor more than ten years, and to pay a fine of not less
15 than ten thousand dollars nor more than thirty thousand dollars.

16 (2) Any person who knowingly or intentionally possesses sixty pounds or
17 more, but less than two thousand pounds of marijuana, tetrahydrocannabinol or
18 chemical derivatives thereof, or synthetic cannabinoids shall be sentenced to serve
19 a term of imprisonment at hard labor of not less than five years, nor more than thirty
20 years, and to pay a fine of not less than fifty thousand dollars nor more than one
21 hundred thousand dollars.

22 ~~(2)~~(3) Any person who knowingly or intentionally possesses two thousand
23 pounds or more, but less than ten thousand pounds of marijuana,
24 tetrahydrocannabinol or chemical derivatives thereof, or synthetic cannabinoids shall
25 be sentenced to serve a term of imprisonment at hard labor of not less than ten years
26 nor more than forty years, and to pay a fine of not less than one hundred thousand
27 dollars nor more than four hundred thousand dollars.

28 ~~(3)~~(4) Any person who knowingly or intentionally possesses ten thousand
29 pounds or more of marijuana, tetrahydrocannabinol or chemical derivatives thereof,

1 or synthetic cannabinoids shall be sentenced to serve a term of imprisonment at hard
 2 labor of not less than twenty-five years, nor more than forty years and to pay a fine
 3 of not less than four hundred thousand dollars nor more than one million dollars.

4 * * *

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

The original instrument was prepared by Alden A. Clement, Jr. The following digest, which does not constitute a part of the legislative instrument, was prepared by Cathy R. Wells.

DIGEST

SB 241 Reengrossed

2015 Regular Session

Morrell

Present law provides penalties for the present law crimes of distribution or possession with intent to distribute marijuana and possession of synthetic cannabinoids.

Present law provides that on a first conviction for possession of marijuana or synthetic cannabinoids, the offender is to be fined up to \$500, imprisoned for up to six months, or both.

Present law provides that on a second conviction for possession of marijuana or synthetic cannabinoids, the offender is to be fined between \$250 and \$2,000, imprisoned with or without hard labor for up to five years, or both. Present law further provides that if the court places the offender on probation, the probation must require the offender to participate in a court-approved substance abuse program and perform four eight-hour days of court-approved community service, with any costs associated with probation to be paid by the offender.

Present law provides that on a third or subsequent conviction for possession of marijuana or synthetic cannabinoids, the offender is to be imprisoned with or without hard labor for up to 20 years, and also may be fined up to \$5,000.

Present law provides that a conviction for the violation of any other statute or ordinance with the same elements as present law relative to simple possession of marijuana or synthetic cannabinoids is considered to be a prior conviction for the purposes of present law penalties for second, third, or subsequent offenders.

Present law provides that a conviction for the violation of any other statute or ordinance with the same elements as present law prohibiting the distributing or dispensing or possession with intent to distribute or dispense marijuana or synthetic cannabinoids is considered to be a prior conviction for the purposes of present law penalties for second, third, or subsequent offenders.

Proposed law provides that on a first conviction for violation of present law with regard to marijuana, tetrahydrocannabinol, or chemical derivatives thereof, for the possession of 14 grams or less, the offender is to be fined up to \$300, imprisoned in parish jail for not more

than fifteen days, or both.

Proposed law provides that on a first conviction for violation of present law with regard to marijuana, tetrahydrocannabinol, or chemical derivatives thereof, for the possession of 14 grams or more, but less than two and one-half pounds, the offender is to be fined not more than \$500, imprisoned in the parish jail for not more than six months, or both.

Proposed law provides a one-time two-year cleansing period for a first conviction under present law.

Proposed law provides that on a second conviction for violation of present law with regard to marijuana, tetrahydrocannabinol, or chemical derivatives thereof, the offender is to be fined not more than \$1,000, imprisoned in the parish jail for not more than six months, or both.

Proposed law provides that on a third conviction for violation of present law with regard to marijuana, tetrahydrocannabinol, or chemical derivatives thereof, the offender is to be fined not more than \$2,500, imprisoned with or without hard labor for not more than two years, or both.

Proposed law provides that on a fourth or subsequent conviction for violation of present law with regard to marijuana, tetrahydrocannabinol, or chemical derivatives thereof, the offender is to be fined not more than \$5,000, imprisoned with or without hard labor for not more than eight years, or both.

Proposed law provides that on a first conviction for possession of synthetic cannabinoids, the offender is to be fined not more than \$500, imprisoned for not more than six months, or both.

Proposed law provides that on a second conviction for possession of synthetic cannabinoids, the offender is to 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.

Proposed law provides that on a third or subsequent conviction for possession of synthetic cannabinoids, the offender is to be sentenced to imprisonment with or without hard labor for not more than 20 years, and may also be fined not more than \$5,000.

Proposed law provides that a conviction for the violation of any other provision of present law with the same elements proposed law prohibiting the possession of synthetic cannabinoids is considered a prior conviction for the purposes of proposed law relative to penalties for second, third, or subsequent offenses.

Proposed law provides that a conviction for the violation of any other provision of present law with the same elements as proposed law prohibiting the distributing or dispensing or possession with intent to distribute or dispense synthetic cannabinoids is considered a prior conviction for the purposes of proposed law relative to penalties for second, third, or subsequent offenses.

Proposed law provides that if the court places the offender on probation, the probation must provide for a minimum condition that the offender participate in a court-approved substance abuse program and perform four eight-hour days of court-approved community service activities, with any costs associated with probation shall be paid by the offender.

Proposed law provides that any person who knowingly or intentionally possesses two and one-half pounds or more, but less than 60 pounds of marijuana, tetrahydrocannabinol or chemical derivatives thereof, or synthetic cannabinoids is to be sentenced to imprisonment with or without hard labor for not less than two years, nor more than 10 years, and fined not less than \$10,000 nor more than \$30,000.

Proposed law otherwise retains present law.

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

(Amends R.S. 40:966(E) and (F))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary C to the original bill

1. Change proposed law penalties for possession of 14 grams or less and more than 14 grams but less than two and one-half pounds of marijuana and related substances.
2. Add penalties specific to possession of synthetic cannabinoids.

Senate Floor Amendments to engrossed bill

1. Makes technical corrections.
2. Clarifies cleansing language.
3. Clarifies that punishment may include a fine, imprisonment, or both.