**South Carolina General Assembly**

118th Session, 2009-2010

**H. 4255**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Harrison

Document Path: l:\council\bills\nbd\11605ab10.docx

Introduced in the House on January 12, 2010

Currently residing in the House Committee on **Judiciary**

Summary: Controlled substances

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/15/2009 House Prefiled

12/15/2009 House Referred to Committee on **Judiciary**

1/12/2010 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2010\01-12-10.docx)‑47

1/12/2010 House Referred to Committee on **Judiciary** [HJ](file:///h:\HJ%20Archive\2010\01-12-10.docx)‑47

**VERSIONS OF THIS BILL**

[12/15/2009](file:///p:\pprever\2009-10\4255_20091215.docx)

**A** **BILL**

TO AMEND SECTIONS 44‑53‑190, AS AMENDED, 44‑53‑210, 44‑53‑230, 44‑53‑250, AND 44‑53‑270, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING, RESPECTIVELY, TO SCHEDULES I THROUGH V CONTROLLED SUBSTANCES AND THE DESIGNATED DRUGS IN EACH SCHEDULE, SO AS TO PROVIDE THAT ANY SUBSTANCE DECLARED A CONTROLLED SUBSTANCE IN THE RESPECTIVE SCHEDULES BY THE UNITED STATES DEPARTMENT OF JUSTICE IS CONSIDERED A CONTROLLED SUBSTANCE UPON THE EFFECTIVE DATE SPECIFIED IN THE FEDERAL REGISTER ANNOUNCING THE DESIGNATION; AND TO AMEND SECTION 44‑53‑370, AS AMENDED, RELATING TO CRIMINAL PENALTIES FOR CONTROLLED SUBSTANCE VIOLATIONS, SO AS TO PROVIDE THAT IT IS UNLAWFUL TO POSSESS ONE GRAM, RATHER THAN 10 GRAINS, OF COCAINE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 44‑53‑190(a) of the 1976 Code is amended to read:

“(a) The controlled substances listed in this section are included in Schedule I. Any other substance declared a controlled substance in Schedule I by the Drug Enforcement Administration (DEA), United States Department of Justice, or its successor agency, and listed in 21 C.F.R. Section 1308.11, must be considered a Schedule I controlled substance within the meaning of this section upon the effective date specified in the Federal Register announcement.”

SECTION 2. Section 44‑53‑210(a) of the 1976 Code is amended to read:

“(a) The controlled substances listed in this section are included in Schedule II. Any other substance declared a controlled substance in Schedule II by the Drug Enforcement Administration (DEA), United States Department of Justice, or its successor agency, and listed in 21 C.F.R. Section 1308.12, must be considered a Schedule II controlled substance within the meaning of this section upon the effective date specified in the Federal Register announcement.”

SECTION 3. Section 44‑53‑230(a) of the 1976 Code is amended to read:

“(a) The controlled substances listed in this section are included in Schedule III. Any other substance declared a controlled substance in Schedule III by the Drug Enforcement Administration (DEA), United States Department of Justice, or its successor agency, and listed in 21 C.F.R. Section 1308.13, must be considered a Schedule III controlled substance within the meaning of this section upon the effective date specified in the Federal Register announcement.”

SECTION 4. That undesignated portion of Section 44‑53‑250 preceding subsection (a) is amended to read:

“The controlled substances in this section are included in Schedule IV. Any other substance declared a controlled substance in Schedule IV by the Drug Enforcement Administration (DEA), United States Department of Justice, or its successor agency, and listed in 21 C.F.R. Section 1308.14, must be considered a Schedule IV controlled substance within the meaning of this section upon the effective date specified in the Federal Register announcement.”

SECTION 5. Section 44‑53‑270(a) of the 1976 Code is amended to read:

“(a) The controlled substances listed in this section are included in Schedule V. Any other substance declared a controlled substance in Schedule V by the Drug Enforcement Administration (DEA), United States Department of Justice, or its successor agency, and listed in 21 C.F.R. Section 1308.15, must be considered a Schedule V controlled substance within the meaning of this section upon the effective date specified in the Federal Register announcement.”

SECTION 6. Section 44‑53‑370(d)(4) of the 1976 Code, as last amended by Act 127 of 2005, is further amended to read:

“(4) possession of more than: ~~ten grains~~ one gram of cocaine, one hundred milligrams of alpha‑ or beta‑eucaine, four grains of opium, four grains of morphine, two grains of heroin, one hundred milligrams of isonipecaine, twenty‑eight grams or one ounce of marijuana, ten grams of hashish, fifty micrograms of lysergic acid diethylamide (LSD) or its compounds, fifteen tablets, capsules, dosage units, or the equivalent quantity of 3, 4‑methylenedioxymethamphetamine (MDMA), or twenty milliliters or milligrams of gamma hydroxybutyric acid or a controlled substance analogue of gamma hydroxybutyric acid, is prima facie guilty of violation of subsection (a) of this section. A person who violates this subsection with respect to twenty‑ eight grams or one ounce or less of marijuana or ten grams or less of hashish is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than thirty days or fined not less than one hundred dollars nor more than two hundred dollars. Conditional discharge may be granted in accordance with the provisions of Section 44‑53‑450 upon approval by the circuit solicitor to the magistrate or municipal judge. As a part of a sentence, a magistrate or municipal judge may require attendance at an approved drug abuse program. Persons charged with the offense of possession of marijuana or hashish under this item may be permitted to enter the pretrial intervention program under the provisions of Sections 17‑22‑10 through 17‑22‑160. For a second or subsequent offense, the offender is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than one year or fined not less than two hundred dollars nor more than one thousand dollars, or both.

When a person is charged under this subsection for possession of controlled substances, bail shall not exceed the amount of the fine and the assessment provided pursuant to Section 14‑1‑206, 14‑1‑207, or 14‑1‑208, whichever is applicable. A person charged under this item for a first offense for possession of controlled substances may forfeit bail by nonappearance. Upon forfeiture in general sessions court, the fine portion of the bail must be distributed as provided in Section 14‑1‑205. The assessment portion of the bail must be distributed as provided in Section 14‑1‑206, 14‑1‑207, or 14‑1‑208, whichever is applicable.”

SECTION 7. This act takes effect upon approval by the Governor.

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