**South Carolina General Assembly**

121st Session, 2015-2016

**H. 4798**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Rutherford

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Introduced in the House on February 2, 2016

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

Summary: Controlled substances

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/2/2016 House Introduced and read first time ([House Journal‑page 12](file:///h:\HJ%20Archive\2016\02-02-16.docx))

2/2/2016 House Referred to Committee on **Judiciary** ([House Journal‑page 12](file:///h:\HJ%20Archive\2016\02-02-16.docx))

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**VERSIONS OF THIS BILL**

[2/2/2016](file:///p:\pprever\2015-16\4798_20160202.docx)

**A** **BILL**

TO AMEND SECTION 44‑53‑370, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CONTROLLED SUBSTANCE OFFENSES AND PENALTIES, SO AS TO LEGALIZE THE POSSESSION OF TWENTY‑EIGHT GRAMS OR ONE OUNCE OR LESS OF MARIJUANA OR TEN GRAMS OR LESS OF HASHISH BY A VETERAN WITH AN HONORABLE DISCHARGE OR A GENERAL UNDER HONORABLE CONDITIONS DISCHARGE, WHOM THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS HAS DIAGNOSED WITH SERVICE‑CONNECTED POST‑TRAUMATIC STRESS DISORDER (PTSD) ARISING FROM THE VETERAN’S DUTY IN AN AREA THAT THE PRESIDENT OF THE UNITED STATES DESIGNATED BY EXECUTIVE ORDER AS AN AREA IN WHICH UNITED STATES ARMED FORCES ARE ENGAGING OR HAVE ENGAGED IN COMBAT.

Whereas, mental and behavioral health experts estimate that as many as twenty percent of Iraq and Afghanistan war veterans suffer from post‑traumatic stress disorder (PTSD); and

Whereas, the National Institute of Mental Health recently concluded that the suicide rate among veterans is fifty percent higher than the national average, and PTSD is a major contributing factor; and

Whereas, according to the United States Department of Veterans Affairs, on average, approximately twenty‑two former members of the Armed Forces commit suicide every day; and

Whereas, traditional PTSD medications, including Zoloft and Paxil, have proven ineffective for many patients and possess known deleterious side effects for many others; and

Whereas, there is growing evidence that marijuana can positively affect the brain circuits involved in PTSD; and

Whereas, according to research conducted by the National Institute on Alcohol Abuse and Alcoholism, tetrahydrocannabinol (THC), the chemical that gives marijuana its feel‑good qualities, acts on a system in the brain that is critical for fear and anxiety modulation; and

Whereas, when South Carolina’s combat veterans are suffering to the point where they are committing suicide at nearly a fifty percent higher rate than the general population, the State, at a minimum, should not criminalize the one treatment that might alleviate the ravaging effects of PTSD; and

Whereas, South Carolina must reform its criminal penalties for marijuana possession to free up the necessary time and money to go after violent criminals who cause true havoc and loss of life in our communities. Now, therefore,

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

SECTION 1. Section 44‑53‑370(d)(4) of the 1976 Code, as last amended by Act 273 of 2010, is further amended to read:

“(4)(a) possession of more than: 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. Except as provided in subitem (c) of this item, 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~~ pursuant to 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. Notwithstanding ~~any other~~ another provision of law, a person convicted and sentenced pursuant to this item may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits.

(b) 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~~ pursuant to Section 14‑1‑205. The assessment portion of the bail must be distributed ~~as provided in~~ pursuant to Section 14‑1‑206, 14‑1‑207, or 14‑1‑208, whichever is applicable.

(c) Notwithstanding another provision of law, it is not unlawful for a veteran with an honorable discharge or a general under honorable conditions discharge, whom the United States Department of Veterans Affairs has diagnosed with service‑connected post‑traumatic stress disorder (PTSD) arising from the veteran’s duty in an area that the President of the United States designated by executive order as an area in which United States armed forces are engaging or have engaged in combat to possess twenty‑eight grams or one ounce or less of marijuana or ten grams or less of hashish.”

SECTION 2. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 3. This act takes effect upon approval by the Governor.

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