**A** **BILL**

TO AMEND SECTION 44‑53‑370, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CONTROLLED SUBSTANCE OFFENSES AND PENALTIES, SO AS TO DECRIMINALIZE POSSESSION OF TWENTY‑EIGHT GRAMS OR ONE OUNCE OR LESS OF MARIJUANA OR TEN GRAMS OR LESS OF HASHISH AND TO AUTHORIZE LAW ENFORCEMENT TO ISSUE A CIVIL CITATION FOR POSSESSION OF THAT SAME QUANTITY OF MARIJUANA OR HASHISH.

Whereas, in 2007, marijuana possession arrests accounted for ninety‑one percent of all marijuana‑related arrests in South Carolina; and

Whereas, South Carolina is ranked fifth in the nation for violent crimes and these marijuana possession arrests are made at the expense of preventing and solving violent crimes; 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 is amended to read:

“(4) 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~~. 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~~ may be issued a citation and must be fined not less than one hundred dollars ~~nor~~ and not more than two hundred dollars. For a second or subsequent violation, a person must be issued a citation and must be fined not less than two hundred dollars and not more than one thousand dollars. A person issued a citation must not be taken into custody or arrested for such violation. ~~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. Notwithstanding any other 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.~~

When a person is charged under this subsection for possession of controlled substances, bail ~~shall~~ must 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 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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