

Amendment No. 1 to HB0873

Lamberth
Signature of Sponsor

AMEND Senate Bill No. 1211

House Bill No. 873*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 39-17-418, is amended by deleting the section in its entirety and substituting instead the following:

(a)

(1) It is an offense for a person to knowingly possess or casually exchange a controlled substance, except for a violation with respect to a Schedule VI controlled substance classified as marijuana in an amount of one ounce (28.35 grams) or less, unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of professional practice.

(2) A violation of this subsection (a) is a Class A misdemeanor.

(3) A violation of this subsection (a) with respect to any amount of methamphetamine shall be punished by confinement for not less than thirty (30) days, and the person shall serve at least one hundred percent (100%) of the thirty-day minimum.

(A) The thirty-day minimum sentence required by subdivision (a)(3) shall not be construed to prohibit a person sentenced pursuant to this subdivision (a)(3) from participating in a drug or recovery court that is certified by the department of mental health and substance abuse services.

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(B) Any person participating in such a court may receive sentence credit for up to the full thirty-day minimum required by this subdivision (a)(3).

(4)

(A) In addition to the other penalties provided in this subsection (a), any person convicted of violating this section for possession of a controlled substance described in this subsection (a) may be required to attend a drug offender school, if available, or may be required to perform community service work at a drug or alcohol rehabilitation or treatment center.

(B) Any person required to attend a drug offender school pursuant to this subdivision (a)(4)(A) shall also be required to pay a fee for attending the school. If the court determines that the person, by reason of indigency, cannot afford to pay a fee to attend the school, the court shall waive the fee and the person shall attend the school without charge. The amount of the fee shall be established by the local governmental authority operating the school, but the fee shall not exceed the fee charged for attending an alcohol-safety DUI school program, if such a program is available in the jurisdiction. All fees collected pursuant to this subsection (f) shall be used by the governmental authority

responsible for administering the school for operation of the school.

(b)

(1) It is an offense to violate subsection (a) where the person has two (2) or more prior convictions under subsection (a).

(2) A violation of this subsection (b) is a Class E felony.

(c)

(1) It is an offense for an adult to casually exchange a controlled substance described in subsection (a) to a minor if the adult is at least two (2) years the minor's senior and knows that the person is a minor.

(2) A violation of this subsection (c) is punished as a felony as provided in § 39-17-417.

(d)

(1) It is an offense for a person to knowingly possess or casually exchange one ounce (28.35 grams) or less of a Schedule VI controlled substance defined as marijuana.

(2) A violation of this subsection (d) is a Class A misdemeanor.

(3) In addition to any other sentence authorized, any person convicted of a third or subsequent violation of this subsection (d) shall be required to perform community service work at a drug or alcohol rehabilitation or treatment center and may be required to attend a drug offender school, if available.

(e)

(1) It is an offense for an adult to casually exchange a Schedule VI controlled substance defined as marijuana in an amount of one ounce

(28.35 grams) or less to a minor who is at least two (2) years the minor's senior and knows that the person is a minor.

(2) A violation of this subsection (e) is punished as a felony as provided in § 39-17-417.

(f)

(1) It is an offense for a person to distribute one ounce (28.35 grams) or less of a Schedule VI controlled substance defined as marijuana.

(2) A violation of this subsection (f) is a Class A misdemeanor.

SECTION 2. Tennessee Code Annotated, Section 39-17-417(g)(1), is amended by deleting the language "not less than one-half (1/2) ounce (14.175 grams) nor" and substituting instead "more than one ounce (28.35 grams) but not".

SECTION 3. Tennessee Code Annotated, Section 39-17-419, is amended by deleting the section in its entirety and substituting instead the following:

(a)

(1) It may be inferred from the amount of a controlled substance or substances possessed by an offender, along with other relevant facts surrounding the arrest, that the controlled substance or substances were possessed with the purpose of selling or otherwise dispensing.

(2) It may be inferred from circumstances indicating a casual exchange among individuals of a small amount of a controlled substance or substances that the controlled substance or substances so exchanged were possessed not with the purpose of selling or otherwise dispensing in violation of § 39-17-417(a).

(3) It may be inferred that the possession or casual exchange among individuals of one ounce (28.35 grams) or less of a Schedule VI

controlled substance defined as marijuana was not possessed or exchanged for the purpose of sale or distribution and is punishable under § 39-17-418(d).

(4) The inferences shall be transmitted to the jury by the trial judge's charge, and the jury will consider the inferences along with the nature of the substance possessed when affixing the penalty.

SECTION 4. This act shall take effect July 1, 2015, the public welfare requiring it.