

ARKANSAS SENATE

88th General Assembly - Regular Session, 2011

Amendment Form

Subtitle of Senate Bill No. 750

TO IMPROVE PUBLIC SAFETY AND SLOW CORRECTIONS GROWTH.

Amendment No. 1 to Senate Bill No. 750

Amend Senate Bill No. 750 as originally introduced:

Page 22, delete lines 23 and 24 and substitute:

"(B) The property is a firearm valued at less than two thousand five hundred dollars (\$2,500);

AND

Page 51, delete Section 48 and substitute the following:

"SECTION 48. Arkansas Code Title 5, Chapter 64, Subchapter 4 is amended to add a new section to read as follows:

5-64-424. Possession of a Schedule I or Schedule II controlled substance that is not methamphetamine or cocaine with the purpose to deliver.

(a) Except as provided in this chapter, it is unlawful if a person possesses a Schedule I or Schedule II controlled substance that is not methamphetamine or cocaine with the purpose to deliver the Schedule I or Schedule II controlled substance that is not methamphetamine or cocaine. Purpose to deliver may be shown by any of the following factors:

(1) The person possesses the means to weigh, separate, or package a Schedule I or Schedule II controlled substance that is not methamphetamine or cocaine; or

(2) The person possesses a record indicating a drug-related transaction; or

(3) The Schedule I or Schedule II controlled substance that is not methamphetamine or cocaine is separated and packaged in a manner to facilitate delivery; or

(4) The person possesses a firearm that is in the immediate physical control of the person at the time of the possession of the Schedule I or Schedule II controlled substance that is not methamphetamine or cocaine; or

(5) The person possesses at least two (2) other controlled substances in any amount; or

(6) Other relevant and admissible evidence that contributes to the proof that a person's purpose was to deliver a Schedule I or Schedule II controlled substance that is not methamphetamine or cocaine.



(b) A person who violates this section upon conviction is guilty of a:

(1) Class C felony if the person possessed by aggregate weight, including an adulterant or diluent less than two grams (2g) of a Schedule I or Schedule II controlled substance that is not methamphetamine or cocaine;

(2) Class B felony if the person possessed by aggregate weight, including an adulterant or diluent:

(A) Two grams (2g) or more but less than twenty-eight grams (28g) of a Schedule I or Schedule II controlled substance that is not methamphetamine, cocaine, or a controlled substance listed in this subdivision (b)(2);

(B) Eighty (80) or more but less than one hundred sixty (160) dosage units of hydromorphone hydrochloride; or

(C) Eighty (80) or more but less than one hundred sixty (160) dosage units of Lysergic Acid Diethylamide (LSD); or

(D) Eighty (80) or more but less than one hundred sixty (160) dosage units but not more than two hundred grams (200g) for any other Schedule I or II depressant or hallucinogenic drug; or

(E) Eighty (80) or more but less than one hundred sixty (160) dosage units but not more than two hundred grams (200g) for any other Schedule I or II stimulant drug; or

(3) Class A felony if the person possessed by aggregate weight, including an adulterant or diluent: or

(A) Twenty-eight grams (28g) or more but less than two hundred grams (200g) of a Schedule I or Schedule II controlled substance that is not methamphetamine, cocaine, or a controlled substance listed in this subdivision (b)(3); or

(B) One hundred twenty-eight milligrams (128mg) or more or one hundred sixty (160) dosage units or more but less than two hundred grams (200g) of hydromorphone hydrochloride; or

(C) One thousand six hundred micrograms (1,600µg) or more or one hundred sixty (160) dosage units or more but less than two hundred grams (200g) of Lysergic Acid Diethylamide (LSD); or

(D) One hundred sixty (160) dosage units or more regardless of weight but less than two hundred grams (200g) for any other Schedule I or Schedule II depressant or hallucinogenic drug; or

(E) One hundred sixty (160) dosage units or more regardless of weight but less than two hundred grams (200g) for any other Schedule I or Schedule II stimulant drug.

(c) It is a defense to a prosecution under this section that the person possessed less than the minimum listed amount of a Schedule I or Schedule II controlled substance that is not methamphetamine or cocaine and that is listed in this section."

AND

Page 53, delete Section 49 and substitute the following:

"SECTION 49. Arkansas Code Title 5, Chapter 64, Subchapter 4 is amended to add a new section to read as follows:

5-64-426. Delivery of a Schedule I or Schedule II controlled substance that is not methamphetamine or cocaine.

(a) This section does not apply to the delivery of methamphetamine or cocaine, which is governed by § 5-64-422.

(b) Except as provided in this chapter, it is unlawful for a person to deliver a Schedule I or Schedule II controlled substance.

(c) A person who violates this section upon conviction is guilty of a:

(1) Class C felony if the person delivered by aggregate weight, including an adulterant or diluent, less than two grams (2g) of a Schedule I or Schedule II controlled substance that is not methamphetamine or cocaine;

(2) Class B felony if the person delivered by aggregate weight, including an adulterant or diluent:

(A) Two grams (2g) or more but less than twenty-eight grams (28g) of a Schedule I or Schedule II controlled substance that is not methamphetamine, cocaine, or a controlled substance listed in this subdivision (c)(2);

(B) Eighty (80) or more but less than one hundred sixty (160) dosage units of hydromorphone hydrochloride;

(C) Eighty (80) or more but less than one hundred sixty (160) dosage units of Lysergic Acid Diethylamide (LSD);

(D) Eighty (80) or more but less than one hundred sixty (160) dosage units but not more than two hundred grams (200g) for any other Schedule I or Schedule II depressant or hallucinogenic drug; or

(E) Eighty (80) or more but less than one hundred sixty (160) dosage units but not more than two hundred grams (200g) for any other Schedule I or Schedule II stimulant drug; or

(3) Class A felony if the person delivered by aggregate weight, including an adulterant or diluent:

(A) Twenty-eight grams (28g) or more but less than two hundred grams (200g) of a Schedule I or Schedule II controlled substance that is not methamphetamine, cocaine, or a controlled substance listed in this subdivision (c)(3); or

(B) One hundred sixty (160) dosage units or more but less than two hundred grams (200g) of hydromorphone hydrochloride; or

(C) One hundred sixty (160) dosage units or more but less than two hundred grams (200g) of Lysergic Acid Diethylamide (LSD); or

(D) One hundred sixty (160) dosage units or more regardless of weight but less than two hundred grams (200g) for any other Schedule I or Schedule II depressant or hallucinogenic drug; or

(E) One hundred sixty (160) dosage units or more regardless of weight but less than two hundred grams (200g) for any other Schedule I or Schedule II stimulant drug."

AND

Page 55, delete Section 50 and substitute:

"SECTION 50. Arkansas Code Title 5, Chapter 64, Subchapter 4 is amended to add a new section to read as follows:

5-64-427. Manufacture of a Schedule I or Schedule II controlled substance that is not methamphetamine or cocaine.

(a) This section does not apply to the manufacture of methamphetamine or cocaine, which is governed by § 5-64-423.

(b) Except as provided by this chapter, it is unlawful for a person to manufacture a Schedule I or Schedule II controlled substance.

(c) A person who violates this section upon conviction is guilty of a:

(1) Class C felony if the person manufactured by aggregate weight, including an adulterant or diluent less than two grams (2g) of a Schedule I or Schedule II controlled substance that is not methamphetamine or cocaine;

(2) Class B felony if the person manufactured by aggregate weight, including an adulterant or diluent:

(A) Two grams (2g) or more but less than twenty-eight grams (28g) of a Schedule I or Schedule II controlled substance that is not methamphetamine, cocaine, or a controlled substance listed in this subdivision (c)(2);

(B) Eighty (80) or more but less than one hundred sixty (160) dosage units of hydromorphone hydrochloride;

(C) Eighty (80) or more but less than one hundred sixty (160) dosage units of Lysergic Acid Diethylamide (LSD);

(D) Eighty (80) or more but less than one hundred sixty (160) dosage units for any other Schedule I or Schedule II depressant or hallucinogenic drug regardless of weight; or

(E) Eighty (80) or more but less than one hundred sixty (160) dosage units for any other Schedule I or Schedule II stimulant drug regardless of weight; or

(3) Class A felony if the person manufactured by aggregate weight, including an adulterant or diluent:

(A) Twenty-eight grams (28g) or more of a Schedule I or Schedule II controlled substance that is not methamphetamine, cocaine, or a controlled substance listed in this subdivision (c)(3); or

(B) One hundred sixty (160) dosage units or more of hydromorphone hydrochloride; or

(C) One hundred sixty (160) or more dosage units of Lysergic Acid Diethylamide (LSD); or

(D) One hundred sixty (160) dosage units or more regardless of weight for any other Schedule I or II depressant or hallucinogenic drug; or

(E) One hundred sixty (160) dosage units or more regardless of weight for any other Schedule I or II stimulant drug."

AND

Page 65, delete Section 63 and substitute

"SECTION 63. Arkansas Code Title 5, Chapter 64, Subchapter 4 is amended to add a new section to read as follows:

5-64-443. Drug paraphernalia.

(a) A person who possesses drug paraphernalia with the purpose to use the drug paraphernalia to inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this chapter upon conviction is guilty of:

(1) A Class A misdemeanor; or

(2) A Class D felony if the controlled substance is methamphetamine or cocaine.

(b) A person who uses or possesses with the purpose to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack,

store, contain, or conceal a controlled substance that is methamphetamine or cocaine upon conviction is guilty of a Class B felony.

(c) A person who uses or possesses with the purpose to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled substance a controlled substance that is not methamphetamine or cocaine upon conviction is guilty of a Class D felony."

AND

Page 73, line 5 delete "§ 16-93-618" and substitute "§ 16-93-618(a)(1)(A)-(E)"

AND

Page 75, line 26 delete "methamphetamint" and substitute "methamphetamine"

AND

Page 75, line 30 delete "§ 5-64-443(a)(2)(B)" and substitute "the former § 5-64-403(c)(5)"

AND

Page 76, line 3 delete "§ 5-64-443(a)(2)(B)" and substitute "the former § 5-64-403(c)(5)"

AND

Page 76, line 20 delete "or (B)" and substitute "or (B)"

AND

Page 82, line 24 delete "fourteen (14) days of the submission of the" and substitute "thirty days (30) before the discharge date,"

AND

Page 82, line 25 delete "application,"

AND

Page 97, line 30 delete "withthe" and substitute "with the"

AND

Page 113, line 28 delete "§ 5-64-443(a)(2)(B)" and substitute "the former § 5-64-403(c)(5)"

AND

Page 124, line 14 delete "§ 5-64-443(a)(2)(B)" and substitute "the former § 5-64-403(c)(5)"

AND

Page 124, line 31 delete "§ 5-64-443(a)(2)(B)" and substitute "the former § 5-64-403(c)(5)"

AND

Page 125, line 6 delete "§ 5-64-443(a)(2)(B)" and substitute "the former § 5-64-403(c)(5)"

AND

Page 135, line 6 delete "and"

AND

Page 135, delete line 8 and substitute:

"a death; and

(xii) Inmate has not previously failed a drug court program."

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator Luker

BPG/LNS - 03/04/11 02:52

BPG304

Secretary