



Rep. Robert F. Martwick

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1 AMENDMENT TO HOUSE BILL 1115

2 AMENDMENT NO. _____. Amend House Bill 1115 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Cannabis Control Act is amended by changing
5 Sections 4 and 5 and by adding Section 4.1 as follows:

6 (720 ILCS 550/4) (from Ch. 56 1/2, par. 704)

7 Sec. 4. It is unlawful for any person knowingly to possess
8 cannabis. Any person who violates this section with respect
9 to:

10 (a) not more than 30 ~~2.5~~ grams of any substance containing
11 cannabis is subject to a Uniform Cannabis Citation under
12 Section 4.1 of this Act, unless the person has been previously
13 convicted of 2 or more violations under this Act, in which case
14 the person is guilty of a Class A misdemeanor ~~guilty of a Class~~
15 ~~C misdemeanor;~~

16 (b) (blank); ~~more than 2.5 grams but not more than 10 grams~~

1 ~~of any substance containing cannabis is guilty of a Class B~~
2 ~~misdemeanor;~~

3 (c) (blank); ~~more than 10 grams but not more than 30 grams~~
4 ~~of any substance containing cannabis is guilty of a Class A~~
5 ~~misdemeanor; provided, that if any offense under this~~
6 ~~subsection (c) is a subsequent offense, the offender shall be~~
7 ~~guilty of a Class 4 felony;~~

8 (d) more than 30 grams but not more than 100 ~~500~~ grams of
9 any substance containing cannabis is guilty of a Class A
10 misdemeanor for a first offense, and a Class 4 felony for a
11 subsequent offense ~~Class 4 felony; provided that if any offense~~
12 ~~under this subsection (d) is a subsequent offense, the offender~~
13 ~~shall be guilty of a Class 3 felony;~~

14 (e) more than 100 ~~500~~ grams but not more than 500 ~~2,000~~
15 grams of any substance containing cannabis is guilty of a Class
16 4 ~~3~~ felony;

17 (e-1) more than 500 grams but not more than 2,000 grams of
18 any substance containing cannabis is guilty of a Class 3
19 felony;

20 (f) more than 2,000 grams but not more than 5,000 grams of
21 any substance containing cannabis is guilty of a Class 2
22 felony;

23 (g) more than 5,000 grams of any substance containing
24 cannabis is guilty of a Class 1 felony.

25 (Source: P.A. 90-397, eff. 8-15-97.)

1 (720 ILCS 550/4.1 new)

2 Sec. 4.1. Petty offense sentence for misdemeanor
3 possession of 30 grams or less of cannabis.

4 (a) Upon arrest for possession of not more than 30 grams of
5 any substance containing cannabis under subsection (a) of
6 Section 4 of this Act, criminal charges may be commenced under
7 a Uniform Cannabis Citation under Section 111-3 of the Code of
8 Criminal Procedure of 1963, and the defendant shall be
9 prosecuted and sentenced for the commission of a petty offense.

10 (b) For purposes of this Section, "petty offense" is an
11 offense for which a sentence of imprisonment is not an
12 authorized disposition as defined in Section 5-1-17 of the
13 Unified Code of Corrections.

14 (c) After a person has been arrested for an offense listed
15 in subsection (a) of this Section, once the officer has
16 determined the identity of the person, and determined that the
17 offender has not been convicted of 2 or more offenses under
18 this Act, the law enforcement officer may issue the person a
19 Uniform Cannabis Citation. When the law enforcement officer has
20 observed the commission of the offense, the signing of the
21 Uniform Cannabis Citation is sufficient to charge the person if
22 the law enforcement officer certifies that the statements set
23 forth in the Uniform Cannabis Citation are true and correct and
24 are subject to the penalties provided by law for false
25 certification under Section 1-109 of the Code of Civil
26 Procedure and perjury under Section 32-2 of the Criminal Code

1 of 2012. The Uniform Cannabis Citation shall allege the
2 commission of the offense by including:

3 (1) the name, date of birth, and address of the
4 defendant;

5 (2) the name of the offense;

6 (3) the statutory provision alleged to have been
7 violated;

8 (4) the date, time, location, and county of the offense
9 as definitely can be done;

10 (5) the weight of the recovered substance; and

11 (6) the fine amount based upon defendant's number of
12 prior guilty dispositions charged by a Uniform Cannabis
13 Citation.

14 When a Uniform Cannabis Citation has been issued to a
15 defendant, the copy of the Citation filed with the circuit
16 court constitutes a complaint to which the defendant may plead,
17 unless he or she specifically requests that a verified
18 complaint be filed.

19 (d) When a Uniform Cannabis Citation has been issued to a
20 defendant, the arresting officer shall set the defendant's
21 first appearance in court on a date not less than 14 days but
22 within 60 days after the date of the defendant's arrest.

23 (e) When a Uniform Cannabis Citation has been issued to a
24 defendant, the law enforcement officer shall also issue written
25 notice to the defendant in substantially the following form:

26 AVOID MULTIPLE COURT APPEARANCES

1 If you intend to plead "not guilty" to this charge, or if,
2 in addition, you intend to demand a trial by jury, so
3 notify the clerk of the court at least 10 days (excluding
4 Saturdays, Sundays, or holidays) before the day set for
5 your appearance. A new appearance date for a trial by jury
6 will be set for a court date not less than 45 days, but not
7 more than 60 days, after your arrest, and arrangements will
8 be made to have the arresting officer and laboratory
9 analyst on the next court date for jury trial. Failure to
10 notify the clerk of either your intention to plead "not
11 guilty" or your intention to demand a jury trial, may
12 result in your having to return to court, if you plead "not
13 guilty" on the date originally set for your court
14 appearance.

15 (f) A case shall not be dismissed due to an error by the
16 arresting officer or the clerk of the court, or both, in
17 setting a defendant's first appearance date, subject to the
18 right of speedy trial provided under Section 103-5 of the Code
19 of Criminal Procedure of 1963.

20 (g) Within 14 days (excluding Saturdays, Sundays, or
21 holidays) from the date defendant was issued a Uniform Cannabis
22 Citation, a defendant may enter a plea of guilty and mail the
23 fine to the clerk of the court of the county in which defendant
24 was arrested. The fine schedule when no court appearance is
25 required is as follows:

26 (1) \$250 for first disposition of guilty of an offense

1 charged by a Uniform Cannabis Citation;

2 (2) \$300 for second disposition of guilty of an offense
3 charged by a Uniform Cannabis Citation;

4 (3) a person who commits a third or subsequent offense
5 is subject to the criminal penalties set forth in
6 subsection (a) of Section 4 of this Act.

7 (h) To plead guilty, the defendant shall sign the section
8 on the reverse side of the Uniform Cannabis Citation which
9 indicates defendant knowingly and voluntarily enters a plea of
10 guilty after being informed that:

11 (1) the nature of the charge is a petty offense not
12 punishable by a sentence of imprisonment;

13 (2) the maximum sentence is a fine of \$300, plus an
14 additional penalty for failure to pay the fine within 14
15 days, court fees and costs, drug laboratory analysis fees
16 and costs, and a period of probation or conditional
17 discharge not to exceed a period of 6 months;

18 (3) the minimum sentence for this offense is a fine of
19 \$250, plus an additional penalty for failure to pay the
20 fine within 14 days, court fees and costs, and drug
21 laboratory analysis fees and costs;

22 (4) the defendant has the right to plead not guilty, to
23 persist in the plea of not guilty if it has already been
24 made, or to plead guilty;

25 (5) if the defendant pleads not guilty and requests a
26 trial, if the defendant is found guilty he or she is

1 required to pay the fee imposed by subsection (j) of this
2 Section, an additional penalty for failure to pay the fine
3 in a timely manner, all applicable court costs and fees,
4 and all applicable crime laboratory drug analysis costs and
5 fees prescribed by the circuit court;

6 (6) if the defendant pleads guilty, there shall not be
7 a trial of any kind, so that by pleading guilty, the
8 defendant waives the right to a trial by jury and the right
9 to be confronted with the witnesses against him or her, to
10 cross-examine these witnesses, and to testify if he or she
11 chooses to do so;

12 (7) if the defendant fails to appear at a hearing or
13 trial, a default judgment shall be entered against the
14 defendant for the fine amount under subsection (j) of this
15 Section, plus all applicable fees and costs under this
16 Section, and an arrest warrant may issue for the defendant
17 under Supreme Court Rule 572(b); and

18 (8) the disposition of this offense shall be sent to
19 the Department of State Police and the local law
20 enforcement agency that issued the Citation.

21 (i) When a defendant has received a Uniform Cannabis
22 Citation and does not appear on the date set for appearance or
23 any date which the case has been continued, the court shall
24 continue the case for a minimum of 30 days and require a notice
25 of the next continued court date be sent to the defendant at
26 his or her last known address. If defendant does not appear on

1 or before the next continued court date and satisfy the court
2 that his or her appearance was impossible and without any fault
3 on his or her part, the court shall enter an order of failure
4 to appear to answer the charge. A verified charge may be filed,
5 if one has not been previously filed, and a summons or warrant
6 of arrest for the defendant may be issued by the court.

7 (j) Sentence. Upon a plea of guilty during a court
8 appearance or a finding of guilty after a trial, the court
9 shall impose a fine for each offense:

10 (1) \$250 for first disposition of guilty of an offense
11 charged by Uniform Cannabis Citation;

12 (2) \$300 for second disposition of guilty of an offense
13 charged by Uniform Cannabis Citation;

14 (3) a person who commits a third or subsequent offense
15 is subject to the criminal penalties set forth in
16 subsection (a) of Section 4 of this Act.

17 In addition to the mandatory fine, and imposition of court
18 costs, the court may also impose a sentence of probation or
19 conditional discharge not to exceed a period of 6 months. The
20 court shall specify any of the conditions of probation and
21 conditional discharge available under Section 5-6-3 of the
22 Unified Code of Corrections.

23 (k) A person who fails to pay any applicable fines, fees,
24 or costs issued under this Section within 180 days is subject
25 to garnishment, lien, attachment, or other judicial process to
26 recover any outstanding debt.

1 (l) All funds obtained under this Section shall be
2 distributed into the general revenue fund of the county in
3 which the offense was committed.

4 (m) The Department of State Police shall create a Uniform
5 Cannabis Citation for use by law enforcement agencies in
6 accordance with this Section. The Department of State Police
7 may adopt rules to implement the provisions of this Section.

8 (n) A county or municipality, including a home rule unit,
9 may not regulate the enforcement of laws governing violations
10 of the Cannabis Control Act. This Section is a denial and
11 limitation under subsection (i) of Section 6 of Article VII of
12 the Illinois Constitution on the concurrent exercise by home
13 rule units of the powers exclusively exercised by the State. A
14 system of regulation enforcing laws governing violations of the
15 Cannabis Control Act by a county or municipality, including a
16 home rule unit, that was in effect before the effective date of
17 this amendatory Act of the 99th General Assembly is exempt from
18 the provisions of this Section.

19 (720 ILCS 550/5) (from Ch. 56 1/2, par. 705)

20 Sec. 5. It is unlawful for any person knowingly to
21 manufacture, deliver, or possess with intent to deliver, or
22 manufacture, cannabis. Any person who violates this section
23 with respect to:

24 (a) not more than 30 grams of any substance containing
25 cannabis is guilty of a Class B misdemeanor for a first

1 offense, a Class A misdemeanor for a second offense, and a
2 Class 4 felony for a third or subsequent offense ~~2.5 grams of~~
3 ~~any substance containing cannabis is guilty of a Class B~~
4 ~~misdemeanor;~~

5 (b) (blank); ~~more than 2.5 grams but not more than 10 grams~~
6 ~~of any substance containing cannabis is guilty of a Class A~~
7 ~~misdemeanor;~~

8 (c) (blank); ~~more than 10 grams but not more than 30 grams~~
9 ~~of any substance containing cannabis is guilty of a Class 4~~
10 ~~felony;~~

11 (d) more than 30 grams but not more than 500 grams of any
12 substance containing cannabis is guilty of a Class 4 felony for
13 a first offense, and a Class 3 felony for a second or
14 subsequent offense. A ~~for which a~~ fine not to exceed \$50,000
15 may be imposed for a violation of this subsection;

16 (e) more than 500 grams but not more than 2,000 grams of
17 any substance containing cannabis is guilty of a Class 2 felony
18 for which a fine not to exceed \$100,000 may be imposed;

19 (f) more than 2,000 grams but not more than 5,000 grams of
20 any substance containing cannabis is guilty of a Class 1 felony
21 for which a fine not to exceed \$150,000 may be imposed;

22 (g) more than 5,000 grams of any substance containing
23 cannabis is guilty of a Class X felony for which a fine not to
24 exceed \$200,000 may be imposed.

25 (Source: P.A. 90-397, eff. 8-15-97.)

1 Section 10. The Code of Criminal Procedure of 1963 is
2 amended by changing Section 111-3 as follows:

3 (725 ILCS 5/111-3) (from Ch. 38, par. 111-3)

4 Sec. 111-3. Form of charge.

5 (a) A charge shall be in writing and allege the commission
6 of an offense by:

7 (1) Stating the name of the offense;

8 (2) Citing the statutory provision alleged to have been
9 violated;

10 (3) Setting forth the nature and elements of the
11 offense charged;

12 (4) Stating the date and county of the offense as
13 definitely as can be done; and

14 (5) Stating the name of the accused, if known, and if
15 not known, designate the accused by any name or description
16 by which he can be identified with reasonable certainty.

17 (a-5) If the victim is alleged to have been subjected to an
18 offense involving an illegal sexual act including, but not
19 limited to, a sexual offense defined in Article 11 or Section
20 10-9 of the Criminal Code of 2012, the charge shall state the
21 identity of the victim by name, initials, or description.

22 (b) An indictment shall be signed by the foreman of the
23 Grand Jury and an information shall be signed by the State's
24 Attorney and sworn to by him or another. A complaint shall be
25 sworn to and signed by the complainant; provided, that when a

1 peace officer observes the commission of a misdemeanor and is
2 the complaining witness, the signing of the complaint by the
3 peace officer is sufficient to charge the defendant with the
4 commission of the offense, and the complaint need not be sworn
5 to if the officer signing the complaint certifies that the
6 statements set forth in the complaint are true and correct and
7 are subject to the penalties provided by law for false
8 certification under Section 1-109 of the Code of Civil
9 Procedure and perjury under Section 32-2 of the Criminal Code
10 of 2012; and further provided, however, that when a citation is
11 issued on a Uniform Traffic Ticket, ~~or~~ Uniform Conservation
12 Ticket, or Uniform Cannabis Citation (in a form prescribed by
13 the Conference of Chief Circuit Judges and filed with the
14 Supreme Court), the copy of such Uniform Ticket which is filed
15 with the circuit court constitutes a complaint to which the
16 defendant may plead, unless he specifically requests that a
17 verified complaint be filed.

18 (c) When the State seeks an enhanced sentence because of a
19 prior conviction, the charge shall also state the intention to
20 seek an enhanced sentence and shall state such prior conviction
21 so as to give notice to the defendant. However, the fact of
22 such prior conviction and the State's intention to seek an
23 enhanced sentence are not elements of the offense and may not
24 be disclosed to the jury during trial unless otherwise
25 permitted by issues properly raised during such trial. For the
26 purposes of this Section, "enhanced sentence" means a sentence

1 which is increased by a prior conviction from one
2 classification of offense to another higher level
3 classification of offense set forth in Section 5-4.5-10 of the
4 Unified Code of Corrections (730 ILCS 5/5-4.5-10); it does not
5 include an increase in the sentence applied within the same
6 level of classification of offense.

7 (c-5) Notwithstanding any other provision of law, in all
8 cases in which the imposition of the death penalty is not a
9 possibility, if an alleged fact (other than the fact of a prior
10 conviction) is not an element of an offense but is sought to be
11 used to increase the range of penalties for the offense beyond
12 the statutory maximum that could otherwise be imposed for the
13 offense, the alleged fact must be included in the charging
14 instrument or otherwise provided to the defendant through a
15 written notification before trial, submitted to a trier of fact
16 as an aggravating factor, and proved beyond a reasonable doubt.
17 Failure to prove the fact beyond a reasonable doubt is not a
18 bar to a conviction for commission of the offense, but is a bar
19 to increasing, based on that fact, the range of penalties for
20 the offense beyond the statutory maximum that could otherwise
21 be imposed for that offense. Nothing in this subsection (c-5)
22 requires the imposition of a sentence that increases the range
23 of penalties for the offense beyond the statutory maximum that
24 could otherwise be imposed for the offense if the imposition of
25 that sentence is not required by law.

26 (d) At any time prior to trial, the State on motion shall

1 be permitted to amend the charge, whether brought by
2 indictment, information or complaint, to make the charge comply
3 with subsection (c) or (c-5) of this Section. Nothing in
4 Section 103-5 of this Code precludes such an amendment or a
5 written notification made in accordance with subsection (c-5)
6 of this Section.

7 (e) The provisions of subsection (a) of Section 5-4.5-95 of
8 the Unified Code of Corrections (730 ILCS 5/5-4.5-95) shall not
9 be affected by this Section.

10 (Source: P.A. 97-1150, eff. 1-25-13; 98-416, eff. 1-1-14.)".