

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4
5 By: Senator Hester

A Bill

SENATE BILL 766

For An Act To Be Entitled

8 AN ACT CONCERNING VARIOUS AMOUNT THRESHOLDS IN THE
9 CONTROLLED SUBSTANCES CRIMINAL OFFENSE STATUTES;
10 CONCERNING THE OFFENSES OF TRAFFICKING A CONTROLLED
11 SUBSTANCE AND POSSESSION OF A COUNTERFEIT SUBSTANCE;
12 AND FOR OTHER PURPOSES.

Subtitle

16 CONCERNING VARIOUS AMOUNT THRESHOLDS IN
17 THE CONTROLLED SUBSTANCES CRIMINAL
18 OFFENSE STATUTES; CONCERNING THE OFFENSES
19 OF TRAFFICKING A CONTROLLED SUBSTANCE AND
20 POSSESSION OF A COUNTERFEIT SUBSTANCE.

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

25 SECTION 1. Arkansas Code § 5-64-419(b)(3) through (5), concerning the
26 criminal offense of possession of a controlled substance, is amended to read
27 as follows:

28 (3) A Schedule III controlled substance with an aggregate
29 weight, including an adulterant or diluent, of:

30 (A) (i) Less than two grams (2g) upon conviction is guilty
31 of a Class A misdemeanor~~+~~.

32 (ii) However, if the person has four (4) or more
33 prior convictions under this section or the former § 5-64-401(c), upon
34 conviction the person is guilty of a Class D felony for a violation of
35 subdivision (b)(3)(A)(i) of this section;

36 (B) Two grams (2g) or more but less than twenty-eight



1 grams (28g) upon conviction is guilty of a Class D felony;

2 (C) Twenty-eight grams (28g) or more but less than two
3 hundred (200g) upon conviction is guilty of a Class C felony; or

4 (D) Two hundred grams (200g) or more but less than four
5 hundred grams (400g) upon conviction is guilty of a Class B felony;

6 (4) A Schedule IV or Schedule V controlled substance with an
7 aggregate weight, including an adulterant or diluent, of:

8 (A)(i) Less than twenty-eight grams (28g) upon conviction
9 is guilty of a Class A misdemeanor+.

10 (ii) However, if the person has four (4) or more
11 prior convictions under this section or the former § 5-64-401(c), upon
12 conviction the person is guilty of a Class D felony for a violation of
13 subdivision (b)(4)(A)(i) of this section;

14 (B) Twenty-eight grams (28g) or more but less than two
15 hundred grams (200g) upon conviction is guilty of a Class D felony;

16 (C) Two hundred grams (200g) or more but less than four
17 hundred grams (400g) upon conviction is guilty of a Class C felony; or

18 (D) Four hundred grams (400g) or more but less than eight
19 hundred grams (800g) upon conviction is guilty of a Class B felony; or

20 (5) A Schedule VI controlled substance with an aggregate weight,
21 including an adulterant or diluent, of:

22 (i) Less than four ounces (4 oz.) upon conviction is
23 guilty of a Class A misdemeanor;

24 (ii) One ounce (1 oz.) or more but less than four ounces
25 (4 oz.) and the person has ~~two (2)~~ four (4) previous convictions under this
26 section or the former § 5-64-401(c) upon conviction is guilty of a Class D
27 felony;

28 (iii) Four ounces (4 oz.) or more but less than ten pounds
29 (10 lbs.) upon conviction is guilty of a Class D felony;

30 (iv) Ten pounds (10 lbs.) or more but less than twenty-
31 five pounds (25 lbs.) upon conviction is guilty of a Class C felony;

32 (v) Twenty-five pounds (25 lbs.) or more but less than one
33 hundred pounds (100 lbs.) upon conviction is guilty of a Class B felony; or

34 (vi) One hundred pounds (100 lbs.) or more but less than
35 five hundred pounds (500 lbs.) upon conviction is guilty of a Class A felony.

36

1 SECTION 2. Arkansas Code § 5-64-428(b)(1), concerning the criminal
2 offense of possession of a Schedule III controlled substance with the purpose
3 to deliver, is amended to read as follows:

4 (1) Class C felony if the person possessed by aggregate weight,
5 including an adulterant or diluent:

6 (A) Less than twenty-eight grams (28g) of a Schedule III
7 controlled substance that is not a controlled substance listed in this
8 subdivision (b)(1);

9 (B) ~~Forty (40) or more but less~~ Less than eighty (80)
10 dosage units for any other Schedule III depressant or hallucinogenic drug; or

11 (C) ~~Forty (40) or more but less~~ Less than eighty (80)
12 dosage units for any other Schedule III stimulant drug;

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14 SECTION 3. Arkansas Code § 5-64-432(b)(1), concerning the criminal
15 offense of possession of a Schedule IV or V controlled substance with the
16 purpose to deliver, is amended to read as follows:

17 (1) Class D felony if the person possessed by aggregate weight,
18 including an adulterant or diluent:

19 (A) Less than two hundred grams (200g) of a Schedule IV or
20 Schedule V controlled substance that is not a controlled substance listed in
21 this subdivision (b)(1);

22 (B) ~~Forty (40) or more but less~~ Less than eighty (80)
23 dosage units for any other Schedule IV or Schedule V depressant or
24 hallucinogenic drug; or

25 (C) ~~Forty (40) or more but less~~ Less than eighty (80)
26 dosage units for any other Schedule IV or Schedule V stimulant drug;

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28 SECTION 4. Arkansas Code § 5-64-440(b), concerning the criminal
29 offense of trafficking a controlled substance, is amended to read as follows:

30 (b) A person engages in trafficking a controlled substance if he or
31 she possesses, possesses with the purpose to deliver, delivers, or
32 manufactures a controlled substance by aggregate weight, including an
33 adulterant or diluent, in the following amounts:

34
35 SECTION 5. Arkansas Code § 5-64-442(a), concerning the criminal
36 offense of possession of a counterfeit substance, is amended to read as

1 follows:

2 5-64-442. Delivery Possession with the purpose to deliver, delivery, or
3 manufacture of a counterfeit substance.

4 (a) Except as authorized by this chapter, it is unlawful for any
5 person to possess with the purpose to deliver, deliver, or manufacture a
6 counterfeit substance. Purpose to deliver may be shown by any of the
7 following factors:

8 (1) The person possesses the means to weigh, separate, or
9 package a counterfeit substance;

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

12 (3) The counterfeit substance is separated and packaged in a
13 manner to facilitate delivery;

14 (4) The person possesses a firearm that is in the immediate
15 physical control of the person at the time of the possession of the
16 counterfeit substance;

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

19 (6) Other relevant and admissible evidence that contributes to
20 the proof that a person's purpose was to deliver a counterfeit substance.

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