

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION
Revision 1

April 8, 2003

TO: Honorable Terry Keel, Chair, House Committee on Criminal Jurisprudence

FROM: John Keel, Director, Legislative Budget Board

IN RE: HB715 by Dutton (Relating to the penalty for possession of one ounce or less of marijuana.),
As Introduced

Estimated Two-year Net Impact to General Revenue Related Funds for HB715, As Introduced: an impact of \$0 through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	\$0
2005	\$0
2006	\$0
2007	\$0
2008	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from <i>STATE HIGHWAY FUND</i> 6
2004	(\$164,038,515)
2005	(\$164,038,515)
2006	(\$164,038,515)
2007	(\$164,038,515)
2008	(\$164,038,515)

Fiscal Analysis

The bill would amend the Health and Safety Code by making the possession of one ounce or less of marihuana punishable as a Class C misdemeanor. Under current law the possession of marihuana is punishable as a Class B misdemeanor if the amount of marihuana possessed is two ounces or less. The bill would also state that a person's driver's license may not be suspended and is not automatically suspended on final conviction of an offense for which the amount of marihuana possess is one ounce or less.

The bill would apply to offenses committed after September 1, 2003.

Methodology

In 1990, the federal government adopted 23 USC 159, regarding the revocation or suspension of a driver license of individuals convicted of drug offenses. The law requires states to implement a suspension of 180 days for drug offenses. Under the federal law, drug offense means the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance, the possession of which is prohibited under the Controlled Substance Act. The possession of marihuana is prohibited under the federal Controlled Substance Act and is classified as a Schedule I substance.

The federal provisions allow for the withholding of federal highway funds for states that do not implement driver license suspensions in connection with drug offenses. As of 1996, the statute allows for 10% of certain funds apportioned under the Transportation Equity Act to be withheld. The state must provide a certification that it is enforcing the provisions of this statute. According to information received from the Department of Transportation (TxDOT), Texas received approximately \$2.2 billion dollars in federal highway funds this year. If passed, TxDOT estimates that Texas could lose approximately \$164 million dollars in future highway funds.

Local Government Impact

A Class C misdemeanor is punishable by a fine not to exceed \$500. A Class B misdemeanor is punishable by confinement in county jail for a term not to exceed 180 days, a fine not to exceed \$2,000, or both fine and confinement. By lowering the punishment level for the possession of one ounce or less of marihuana from a Class B misdemeanor to a Class C misdemeanor, local governments would experience reduction in revenue from fines related to this offense. Offsetting the potential reduction in fine collections, however, is the potential for savings from reduced county jail populations, since incarceration of persons committing Class C misdemeanors is not permitted. The fiscal impact would vary based on the number of these offenses that are committed in each municipality or county.

Source Agencies: 405 Department of Public Safety, 601 Department of Transportation, 696 Department of Criminal Justice

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