

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**April 18, 2005**

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

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: HB254** by Dutton (Relating to the penalties for possession of two ounces or less of marihuana and to the issuance of an occupational driver's license.), **Committee Report 1st House, Substituted**

<b>No fiscal implication to the State is anticipated.</b>
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The bill would amend Section 481.121(b) of the Health and Safety Code to make the possession of one ounce or less of marihuana punishable as a Class C misdemeanor unless it is shown at trial that the defendant has been previously convicted three or more times in the 24 months preceding the date of commission of the instant offense, in which case the offense would be a Class B 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 amend the Transportation Code to change which courts in which a person would be required to file a petition for an occupational driver's license. Under current statute, a petition is filed in county courts and district courts. The bill would require the petitions to be filed in a justice court or a municipal court. This change would result in a reduction in caseload for the county and district courts and an equal increase in the justice and municipal courts. The fiscal impact resulting from the change in caseloads would vary by court.

The bill would take effect September 1, 2005 and would apply only to offenses committed on or after that date and would apply only to occupational driver's license applications filed on or after that date.

**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 in certain cases, 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:**

**LBB Staff:** JOB, KJG, TG, DLBa