

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

March 6, 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.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB254, As Introduced: an impact of \$0 through the biennium ending August 31, 2007.

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
2006	\$0
2007	\$0
2008	\$0
2009	\$0
2010	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from STATE HIGHWAY FUND 6
2006	(\$199,370,993)
2007	(\$199,370,993)
2008	(\$199,370,993)
2009	(\$199,370,993)
2010	(\$199,370,993)

Fiscal Analysis

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. 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 amend Section 521.372(a) of the Transportation Code to state that a person's driver's license could not be suspended automatically on final conviction of an offense for which the amount of marihuana possessed is one ounce or less.

The bill would take effect September 1, 2005 and would apply only to offenses committed on or after that date.

Methodology

In 1990, the federal government adopted 23 USC 159, regarding the revocation or suspension of a driver's 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 from states that do not implement driver's license suspensions in connection with drug offenses. As of 1996, the statute allows for 10 percent 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 Texas Department of Transportation (TxDOT), Texas is expected to receive approximately \$3.7 billion in fiscal year 2006 and \$3.2 billion in fiscal year 2007 in all federal highway funds. If the provisions of the bill were implemented, TxDOT estimates that Texas could lose approximately \$199.4 million in future highway funds each year.

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: 212 Office of Court Administration, Texas Judicial Council, 405 Department of Public Safety, 601 Department of Transportation, 696 Department of Criminal Justice

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