

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 17, 2007

TO: Honorable Aaron Pena, Chair, House Committee on Criminal Jurisprudence

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

IN RE: HB758 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.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend the Health and Safety Code to create as a Class C misdemeanor offense possession of one ounce or less of marihuana. If it were to be shown at trial that the defendant had been convicted three prior times for the same offense within the preceding 24 months, the offense would be a Class B misdemeanor, and the defendant would not be eligible for community supervision. Otherwise, criteria for marihuana possession as a Class B misdemeanor would be changed from two ounces or less to two ounces or less but more than one ounce.

Under current statute, possession of one ounce of marihuana is a Class B misdemeanor without enhancement for prior offenses. Changing from a Class B to a Class C for possessing one ounce or less of marihuana could reduce the use of a county jail, an impact that would vary by county depending on the number of offenses that occur in the county. However, the requirement that certain defendants would not be eligible for community supervision could increase the use of county jails, again varying by county.

The bill would amend the Code of Criminal Procedure to require a defendant placed on deferred adjudication for a Class B misdemeanor possession of less than one ounce of marihuana to successfully complete a drug abuse awareness and education program approved by the Department of State Health Services (DSHS). Defendants are usually required to pay for participating in a drug abuse awareness and education program; therefore, the only costs to the court or community supervision and corrections department would be administrative. Approval of drug abuse programs is already a DSHS responsibility; therefore, there would be no new cost to the state.

The bill would amend the Transportation Code to add justice and municipal courts to those courts to which certain persons whose license has been suspended may apply for an occupational license. Under current statute, those petitions must be filed in a county or district court. The proposed change could reduce the related workload within the county or district courts and conversely increase the workload within the justice and municipal courts. It is anticipated that the fiscal impact of the shift could be absorbed within existing budgets.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, ES, JB, DB