

HOUSE COMMITTEE OF REFERENCE REPORT

\_\_\_\_\_  
Chair of Committee

\_\_\_\_\_  
Date

April 2, 2019

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB19-1263 be amended as follows, and as so amended, be referred to the Committee on Finance with favorable recommendation:

- 1 Amend printed bill, page 3, line 3, strike "(2);" and substitute "(2)(a) and  
2 (2)(c);".
- 3 Page 3, strike lines 5 through 18, and substitute:  
4 "(2) A person who violates subsection (1) of this section by possessing:  
5 (a) Any material, compound, mixture, or preparation that contains  
6 any quantity of flunitrazepam; ketamine; GAMMA HYDROXYBUTYRATE,  
7 INCLUDING ITS SALTS, ISOMERS, AND SALTS OF ISOMERS; OR cathinones ~~or~~  
8 ~~a controlled substance listed in schedule I or II of part 2 of this article~~  
9 commits a level 4 drug felony.  
10 (c) Any material, compound, mixture, or preparation that contains  
11 any quantity of a controlled substance listed in ~~schedule III, IV, or V~~  
12 ~~SCHEDULE I, II, III, IV, OR V~~ of part 2 of this ~~article~~ ARTICLE 18 except  
13 flunitrazepam, GAMMA HYDROXYBUTYRATE, or ketamine commits a level  
14 1 drug misdemeanor."
- 15 Page 9, line 4, strike "ALL" and substitute "MOST".
- 16 Page 9, line 17, strike "SHALL" and substitute "MAY".
- 17 Page 9, strike line 22, and substitute "PROBATION, OR THE COURT MAY  
18 SENTENCE AN OFFENDER TO UP TO ONE HUNDRED EIGHTY DAYS IN THE  
19 COUNTY JAIL. IN ADDITION TO THE SENTENCE TO PROBATION OR TO THE  
20 COUNTY JAIL, THE OFFENDER".

1 Page 10, line 1, strike "SHALL" and substitute "MAY".

2 Page 10, strike line 6, and substitute "PROBATION, OR THE COURT MAY  
3 SENTENCE AN OFFENDER TO UP TO ONE HUNDRED TWENTY DAYS IN THE  
4 COUNTY JAIL. IN ADDITION TO THE SENTENCE TO PROBATION OR TO THE  
5 COUNTY JAIL, THE OFFENDER".

6 Page 10, line 8, strike "**repeal**" and substitute "**amend**".

7 Page 10, strike lines 13 through 20, and substitute:

8 "(a) Possession of a controlled substance; but only when the  
9 quantity of the controlled substance is not more than four grams of a  
10 ~~schedule I or schedule II controlled substance~~; ANY MATERIAL,  
11 COMPOUND, MIXTURE, OR PREPARATION CONTAINING ANY QUANTITY OF  
12 GAMMA HYDROXYBUTYRATE, INCLUDING ITS SALTS, ISOMERS, AND SALTS  
13 OF ISOMERS; not more than two grams of ~~methamphetamine, heroin,~~  
14 ketamine or cathinones; or not more than four milligrams of  
15 flunitrazepam. The district attorney and defendant may stipulate to the  
16 amount of the controlled substance possessed by the defendant at the time  
17 of sentencing, or the court shall determine the amount at the time of  
18 sentencing."

19 Page 10, line 21, strike "**repeal**" and substitute "**amend**".

20 Page 10, strike lines 23 through 27, and substitute:

21 "**18-1.3-801. Punishment for habitual criminals.** (2) (b) The  
22 provisions of ~~paragraph (a) of this subsection (2) shall not~~ SUBSECTION  
23 (2)(a) DO NOT apply to a conviction for a level 4 drug felony pursuant to  
24 section 18-18-403.5 (2), or a conviction for a level 4 drug felony for  
25 attempt or conspiracy to commit unlawful possession of a controlled  
26 substance, as described in section 18-18-403.5 (2), if the amount of the  
27 ~~schedule I or schedule II~~ controlled substance possessed is not more than  
28 four grams OF ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION  
29 CONTAINING ANY QUANTITY OF GAMMA HYDROXYBUTYRATE, INCLUDING  
30 ITS SALTS, ISOMERS, AND SALTS OF ISOMERS, or not more than two grams  
31 of ~~methamphetamine, heroin,~~ cathinones or ketamine, or not more than  
32 four milligrams of flunitrazepam, even if the person has been previously  
33 convicted of three or more qualifying felony convictions."

34 Page 11, strike lines 1 through 25.

- 1 Renumber succeeding sections accordingly.
- 2 Page 12, line 6, strike "COURT." and substitute "COURT OR TO CONDUCT
- 3 SCREENING, ASSESSMENT, DIVERSION, OR TREATMENT, OR PROVIDE
- 4 SUPERVISION, FOR DRUG OFFENDERS."
- 5 Page 12, strike lines 15 through 19.
- 6 Page 12, line 21, strike "9" and substitute "8".

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