

Amending the Crimes of Possession of Marijuana, Theft, and Burglary; HB 2462

HB 2462 amends criminal code provisions governing possession of marijuana, theft, and burglary. Specifically, the bill amends penalties for possession of marijuana so that a first offense is a class B nonperson misdemeanor, a second offense is a class A nonperson misdemeanor, and a subsequent offense is a drug severity level 5 felony. Previously, a first offense was a class A nonperson misdemeanor and any subsequent offense was a drug severity level 5 felony.

The bill also amends the crime of theft to increase the floor for a severity level 9, nonperson felony theft of property or services from \$1,000 to \$1,500. Accordingly, the ceiling for class A nonperson misdemeanor theft of property and services is raised from “less than \$1,000” to “less than \$1,500,” as well as the ceilings for exceptions raising the severity level for such amounts to a severity level 9, nonperson felony when the property is taken from 3 separate mercantile establishments within a period of 72 hours as part of the same act or common scheme, or when the person committing the theft has been convicted of theft 2 or more times. The bill also establishes a floor of \$50 for the exception raising the severity level to a severity level 9, nonperson felony when the person committing the theft has been convicted of theft 2 or more times, and adds a 5-year lookback provision to this exception.

Further, the bill creates a special sentencing rule for burglary of a dwelling to make the sentence presumptive imprisonment if the offender has a criminal history score of C (one previous person felony and one previous nonperson felony), D (one previous person felony), or E (three or more nonperson felonies). The bill adjusts the penalty provisions for burglary of a dwelling with intent to commit the theft of a firearm to make it a person felony, rather than a nonperson felony.

The bill amends the definition and penalties for aggravated burglary to make aggravated burglary committed by entering into or remaining in a dwelling in which there is a human being, with the required intent, a severity level 4, person felony. Entering into a non-dwelling building or structure in which there is a human being, with the required intent, remains a severity level 5, person felony.

The bill further establishes that the crimes of burglary and aggravated burglary do not apply to a person who enters or remains in retail or commercial premises, while such premises are open to the public, after having been told by the owner or manager not to enter the premises pursuant to the criminal trespass statute, except when the person enters or remains in such premises with the intent to commit a person felony or a sexually motivated crime.