

1 HB269
2 181054-1
3 By Representatives Todd and Harper
4 RFD: Judiciary
5 First Read: 21-FEB-17

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8 SYNOPSIS: Under existing law, a person who possesses
9 marijuana for other than personal use or who
10 possesses marijuana for personal use and has
11 previously been convicted of unlawful possession of
12 marijuana in the second degree is guilty of a
13 felony.

14 Under existing law, a person who possesses
15 marijuana for his or her personal use is guilty of
16 a Class A misdemeanor, punishable by imprisonment
17 for not more than one year, a fine of not more than
18 six thousand dollars, or a combination of
19 imprisonment and a fine.

20 This bill would define unlawful possession
21 of marijuana in the first degree as possession of
22 over one ounce of marijuana and unlawful possession
23 of marijuana in the second degree as possession of
24 one ounce of marijuana or less.

25 This bill would make the first offense of
26 unlawful possession of marijuana in the second
27 degree a violation, punishable by a fine only.

1 Amendment 621 of the Constitution of Alabama
2 of 1901, now appearing as Section 111.05 of the
3 Official Recompilation of the Constitution of
4 Alabama of 1901, as amended, prohibits a general
5 law whose purpose or effect would be to require a
6 new or increased expenditure of local funds from
7 becoming effective with regard to a local
8 governmental entity without enactment by a 2/3 vote
9 unless: it comes within one of a number of
10 specified exceptions; it is approved by the
11 affected entity; or the Legislature appropriates
12 funds, or provides a local source of revenue, to
13 the entity for the purpose.

14 The purpose or effect of this bill would be
15 to require a new or increased expenditure of local
16 funds within the meaning of the amendment. However,
17 the bill does not require approval of a local
18 governmental entity or enactment by a 2/3 vote to
19 become effective because it comes within one of the
20 specified exceptions contained in the amendment.

21
22 A BILL
23 TO BE ENTITLED
24 AN ACT

25
26 To amend Sections 13A-12-213 and 13A-12-214, Code of
27 Alabama 1975, relating to possession of marijuana; to further

1 provide for the definition of unlawful possession of marijuana
2 in the first and second degree; to provide that a first
3 offense for unlawful possession of marijuana in the second
4 degree would be a violation; and in connection therewith would
5 have as its purpose or effect the requirement of a new or
6 increased expenditure of local funds within the meaning of
7 Amendment 621 of the Constitution of Alabama of 1901, now
8 appearing as Section 111.05 of the Official Recompilation of
9 the Constitution of Alabama of 1901, as amended.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Sections 13A-12-213 and 13A-12-214, Code
12 of Alabama 1975, are amended to read as follows:

13 "§13A-12-213.

14 "(a) A person commits the crime of unlawful
15 possession of ~~marihuana~~ marijuana in the first degree if,
16 ~~except as otherwise authorized:~~ he or she possesses more than
17 one ounce of marijuana.

18 "~~(1) He or she possesses marihuana for other than~~
19 ~~personal use; or~~

20 "~~(2) He or she possesses marihuana for his or her~~
21 ~~personal use only after having been previously convicted of~~
22 ~~unlawful possession of marihuana in the second degree or~~
23 ~~unlawful possession of marihuana for his or her personal use~~
24 ~~only.~~

25 "(b) Unlawful possession of ~~marihuana~~ marijuana in
26 the first degree pursuant to ~~subdivision (1) of subsection (a)~~
27 is a Class C felony.

1 "~~(c) Unlawful possession of marihuana in the first~~
2 ~~degree pursuant to subdivision (2) of subsection (a) is a~~
3 ~~Class D felony.~~

4 "§13A-12-214.

5 "(a) A person commits the crime of unlawful
6 possession of ~~marihuana~~ marijuana in the second degree if,
7 except as otherwise authorized, he or she possesses ~~marihuana~~
8 ~~for his personal use only~~ one ounce or less of marijuana.

9 "(b) Unlawful possession of ~~marihuana~~ marijuana in
10 the second degree is a ~~Class A misdemeanor~~ violation
11 punishable on the first offense by a fine of two hundred fifty
12 dollars (\$250) and on any second or subsequent offense by a
13 fine of five hundred dollars (\$500).

14 "(c) A conviction under this section shall not
15 appear on a person's criminal record."

16 Section 2. Although this bill would have as its
17 purpose or effect the requirement of a new or increased
18 expenditure of local funds, the bill is excluded from further
19 requirements and application under Amendment 621, now
20 appearing as Section 111.05 of the Official Recompilation of
21 the Constitution of Alabama of 1901, as amended, because the
22 bill defines a new crime or amends the definition of an
23 existing crime.

24 Section 3. This act shall become effective on the
25 first day of the third month following its passage and
26 approval by the Governor, or its otherwise becoming law.