

1 HB272  
2 190114-1  
3 By Representative Todd  
4 RFD: Judiciary  
5 First Read: 23-JAN-18

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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 Class  
13 C felony and is guilty of a Class D felony for  
14 third or subsequent convictions.

15 This bill would revise the crime to require  
16 possession of two or more ounces of marijuana and  
17 would revise the penalties for violations.

18 Also under existing law, a person who  
19 possesses marijuana for his or her personal use is  
20 guilty of a Class A misdemeanor.

21 This bill would revise the penalty to a  
22 Class D felony.

23 This bill would also create the crime of  
24 possession of marijuana in the third degree for  
25 possession of one ounce or less of marijuana and  
26 would provide that a first or second conviction  
27 would be a violation with applicable fines that

1 would not appear on a person's criminal record and  
2 a third or subsequent offense would be a Class A  
3 misdemeanor.

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

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

24  
25 A BILL  
26 TO BE ENTITLED  
27 AN ACT

1  
2 To amend Section 13A-12-213, and Section 13A-12-214,  
3 Code of Alabama 1975, relating to the possession of marijuana  
4 in the first and second degrees, to revise the penalties for  
5 violations; to add Sections 13A-12-214.4 and 13A-12-214.5, to  
6 the Code of Alabama 1975, to provide for the unlawful  
7 possession of marijuana in the third degree; and in connection  
8 therewith would have as its purpose or effect the requirement  
9 of a new or increased expenditure of local funds within the  
10 meaning of Amendment 621 of the Constitution of Alabama of  
11 1901, now appearing as Section 111.05 of the Official  
12 Recompilation of the Constitution of Alabama of 1901, as  
13 amended.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

17 "§13A-12-213.

18 "(a) A person commits the crime of unlawful  
19 possession of marihuana in the first degree if, except as  
20 otherwise authorized:

21 "~~(1) He~~ he or she possesses two ounces or more of  
22 marihuana. ~~for other than personal use; or~~

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

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

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

7           "§13A-12-214.

8           "(a) A person commits the crime of unlawful  
9 possession of marihuana in the second degree if, except as  
10 otherwise authorized, he or she possesses more than one ounce  
11 but less than two ounces of marihuana ~~for his personal use~~  
12 ~~only.~~

13           "(b) Unlawful possession of marihuana in the second  
14 degree is a ~~Class A misdemeanor~~ Class D felony."

15           Section 2. Sections 13A-12-214.4 and 13A-12-214.5  
16 are added to the Code of Alabama 1975, to read as follows:

17           §13A-12-214.4.

18           (a) A person commits the crime of unlawful  
19 possession of marihuana in the third degree if, except as  
20 otherwise authorized, he or she possesses one ounce or less of  
21 marihuana.

22           (b) Notwithstanding Section 13A-5-12:

23           (1) A first or second offense of unlawful possession  
24 of marihuana in the third degree is a violation punishable  
25 only by a fine not to exceed two hundred fifty dollars (\$250).

26           (2) A third or subsequent offense of unlawful  
27 possession of marihuana in the third degree is a violation

1 punishable only by a fine not to exceed five hundred dollars  
2 (\$500).

3 (c) This section does not apply to edible  
4 derivatives of a cannabis plant such as foods, drinks, and  
5 candies.

6 (d) A violation of this section alone shall not be  
7 accompanied by a charge pursuant to Section 13A-12-260.

8 §13A-12-214.5.

9 Nothing in Section 13A-12-214 or 13A-12-214.4 shall  
10 apply to possession or use of Cannabidiol (CBD) as authorized  
11 under Section 13A-12-214.2 or Section 13A-12-214.3.

12 Section 3. Although this bill would have as its  
13 purpose or effect the requirement of a new or increased  
14 expenditure of local funds, the bill is excluded from further  
15 requirements and application under Amendment 621, now  
16 appearing as Section 111.05 of the Official Recompilation of  
17 the Constitution of Alabama of 1901, as amended, because the  
18 bill defines a new crime or amends the definition of an  
19 existing crime.

20 Section 4. This act shall become effective on the  
21 first day of the third month following its passage and  
22 approval by the Governor, or its otherwise becoming law.