

1 SB251
2 190114-2
3 By Senator Brewbaker
4 RFD: Judiciary
5 First Read: 30-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

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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~~ marijuana in the first degree if,
20 except as otherwise authorized:

21 "~~(1) He~~ he or she possesses ~~marihuana~~ two ounces or
22 more of marijuana. ~~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~~ marijuana in
2 the first degree ~~pursuant to subdivision (1) of subsection (a)~~
3 is a 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~~ marijuana in the second degree if,
10 except as otherwise authorized, he or she possesses ~~marihuana~~
11 more than one ounce but less than two ounces of marijuana for
12 ~~his personal use only.~~

13 "(b) Unlawful possession of ~~marihuana~~ marijuana in
14 the second 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 marijuana in the third degree if, except as
20 otherwise authorized, he or she possesses one ounce or less of
21 marijuana.

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

23 (1) A first or second offense of unlawful possession
24 of marijuana 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 marijuana 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.