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3 SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR SB98
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8 SYNOPSIS: Under existing law, a person commits the
9 crime of unlawful possession of marijuana in the
10 first degree if he or she possesses marijuana for
11 other than personal use or possesses marijuana for
12 personal use only after having been previously
13 convicted of unlawful possession in the second
14 degree or unlawful possession of marijuana for his
15 or her personal use only. Existing law also
16 provides that the crime of unlawful possession of
17 marijuana in the first degree is a Class C felony.

18 This bill would amend the crime of unlawful
19 possession of marijuana in the first degree to
20 provide that a person commits the crime if he or
21 she possesses two or more ounces of marijuana and
22 would prescribe new criminal penalties based on the
23 number of prior violations.

24 Under existing law, a person commits the
25 crime of unlawful possession of marijuana in the
26 second degree if he or she possesses marijuana for
27 personal use only. Existing law also provides that

1 the crime of unlawful possession of marijuana in
2 the second degree is a Class A misdemeanor.

3 This bill would amend the crime of unlawful
4 possession of marijuana in the second degree to
5 provide that a person commits the crime if he or
6 she possesses less than two ounces of marijuana and
7 would change the criminal penalty to a fine only.

8 This bill would also provide that a person
9 who is charged with, found not guilty of, or
10 convicted of unlawful possession of marijuana in
11 the first or second degree may have that charge,
12 finding, or conviction expunged if he or she has
13 not been convicted of a felony, misdemeanor, or
14 violation, excluding minor traffic violations,
15 within the last five years.

16 Amendment 621 of the Constitution of Alabama
17 of 1901, now appearing as Section 111.05 of the
18 Official Recompilation of the Constitution of
19 Alabama of 1901, as amended, prohibits a general
20 law whose purpose or effect would be to require a
21 new or increased expenditure of local funds from
22 becoming effective with regard to a local
23 governmental entity without enactment by a 2/3 vote
24 unless: it comes within one of a number of
25 specified exceptions; it is approved by the
26 affected entity; or the Legislature appropriates

1 funds, or provides a local source of revenue, to
2 the entity for the purpose.

3 The purpose or effect of this bill would be
4 to require a new or increased expenditure of local
5 funds within the meaning of the amendment. However,
6 the bill does not require approval of a local
7 governmental entity or enactment by a 2/3 vote to
8 become effective because it comes within one of the
9 specified exceptions contained in the amendment.

10
11 A BILL
12 TO BE ENTITLED
13 AN ACT
14

15 Relating to drugs; to amend Sections 13A-12-213 and
16 13A-12-214, Code of Alabama 1975, to provide further for the
17 crimes of unlawful possession of marijuana in the first and
18 second degrees; to revise the criminal penalties; to provide
19 for expungement of a charge, finding, or conviction, under
20 certain conditions; and in connection therewith would have as
21 its purpose or effect the requirement of a new or increased
22 expenditure of local funds within the meaning of Amendment 621
23 of the Constitution of Alabama of 1901, now appearing as
24 Section 111.05 of the Official ReCompilation of the
25 Constitution of Alabama of 1901, as amended.
26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

3 "§13A-12-213.

4 "(a) A person commits the crime of unlawful
5 possession of ~~marihuana~~ marijuana in the first degree if,
6 except as otherwise authorized~~;~~, he or she possesses two or
7 more ounces of marijuana.

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

10 "~~(2) He or she possesses marihuana for his or her~~
11 ~~personal use only after having been previously convicted of~~
12 ~~unlawful possession of marihuana in the second degree or~~
13 ~~unlawful possession of marihuana for his or her personal use~~
14 ~~only.~~

15 "(b) Unlawful possession of ~~marihuana~~ marijuana in
16 the first degree ~~pursuant to subdivision (1) of subsection (a)~~
17 ~~is punishable as follows:~~

18 "(1) Upon a first conviction of this section within
19 the preceding five years, the person is guilty of a Class C
20 misdemeanor, punishable only by a fine not to exceed two
21 hundred fifty dollars (\$250).

22 "(2) Upon a second conviction of this section within
23 the preceding five years, the person is guilty of a Class C
24 misdemeanor, punishable only by a fine not to exceed five
25 hundred dollars (\$500).

26 "(3) Upon a third or subsequent conviction of this
27 section within the preceding five years, the person is guilty

1 of a Class C D felony, punishable only by a fine not to exceed
2 seven hundred fifty dollars (\$750).

3 "(c) Unlawful possession of marihuana in the first
4 degree pursuant to subdivision (2) of subsection (a) is a
5 Class D felony. All fines and forfeitures collected upon
6 conviction or upon forfeiture of bail of any person charged
7 with a violation of this section shall be deposited into the
8 State Treasury to the credit of the State General Fund.

9 "(d) Notwithstanding Chapter 27 of Title 15, a
10 person who has been charged with, found not guilty of, or
11 convicted of violating this section may file a petition in the
12 criminal division of any circuit court to expunge records
13 related to the charge, finding, or conviction when the person
14 has not been convicted of any other felony, misdemeanor, or
15 violation, excluding minor traffic violations, during the
16 previous five years. Upon the granting of a petition, the
17 court shall order the expungement of all records of the person
18 as provided in Section 15-27-6.

19 "§13A-12-214.

20 "(a) A person commits the crime of unlawful
21 possession of ~~marihuana~~ marijuana in the second degree if,
22 except as otherwise authorized, he or she possesses less than
23 two ounces of marijuana ~~marihuana for his personal use only.~~

24 "(b) Unlawful possession of ~~marihuana~~ marijuana in
25 the second degree is a ~~Class A misdemeanor~~ violation
26 punishable only by a fine not to exceed two hundred fifty
27 dollars (\$250).

1 (c) A violation of this section alone shall not be
2 accompanied by a charge pursuant to Section 13A-12-260.

3 "(d) All fines and forfeitures collected upon
4 conviction or upon forfeiture of bail of any person charged
5 with a violation of this section shall be deposited into the
6 State Treasury to the credit of the State General Fund.

7 "(e) Notwithstanding Chapter 27 of Title 15, a
8 person who has been charged with, found not guilty of, or
9 convicted of violating this section may file a petition in the
10 criminal division of any circuit court to expunge records
11 related to the charge, finding, or conviction when the person
12 has not been convicted of any other felony, misdemeanor, or
13 violation, excluding minor traffic violations, during the
14 previous five years. Upon the granting of a petition, the
15 court shall order the expungement of all records of the person
16 as provided in Section 15-27-6."

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

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

