

1 SB98
2 197827-1
3 By Senator Singleton
4 RFD: Judiciary
5 First Read: 19-MAR-19

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8 SYNOPSIS: Under existing law, a person convicted of
9 possessing marijuana for other than personal use is
10 guilty of unlawful possession of marijuana in the
11 first degree and is guilty of a Class C felony.

12 Under existing law, a person convicted of
13 unlawful possession of marijuana for personal use
14 after having previously been convicted of unlawful
15 possession of marijuana in the second degree or
16 unlawful possession of marijuana for his or her
17 personal use only is guilty of unlawful possession
18 of marijuana in the first degree and is guilty of a
19 Class D felony.

20 This bill would revise the crime of unlawful
21 possession of marijuana in the first degree to
22 require possession of two or more ounces of
23 marijuana and would revise the penalties for
24 violations.

25 Also under existing law, a person who
26 possesses marijuana for his or her personal use is
27 guilty of unlawful possession of marijuana in the

1 second degree and is guilty of a Class A
2 misdemeanor.

3 This bill would revise the crime of unlawful
4 possession of marijuana in the second degree to
5 require possession of one or more ounces but less
6 than two ounces of marijuana and would revise the
7 penalties for violations.

8 This bill would also create the crime of
9 possession of marijuana in the third degree for
10 possession of less than one ounce of marijuana and
11 would provide that a first or second conviction
12 would be a violation with applicable fines that
13 would not appear on a person's criminal record and
14 a third or subsequent offense would be a Class A
15 misdemeanor.

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 the unlawful possession of marijuana; to
16 amend Section 13A-12-213 and Section 13A-12-214, Code of
17 Alabama 1975, to revise elements and criminal penalties of the
18 crimes of unlawful possession of marijuana in the first and
19 second degrees; to add Sections 13A-12-214.4 and 13A-12-214.5
20 to the Code of Alabama 1975, to provide for the crime of
21 unlawful possession of marijuana in the third degree; and in
22 connection therewith would have as its purpose or effect the
23 requirement of a new or increased expenditure of local funds
24 within the meaning of Amendment 621 of the Constitution of
25 Alabama of 1901, now appearing as Section 111.05 of the
26 Official Recompilation of the Constitution of Alabama of 1901,
27 as amended.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

4 "§13A-12-213.

5 "(a) A person commits the crime of unlawful
6 possession of ~~marihuana~~ marijuana in the first degree if,
7 except as otherwise authorized~~;~~,

8 ~~"(1) He he or she possesses marihuana two or more
9 ounces of marijuana. for other than 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 a Class C felony.

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

21 "§13A-12-214.

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

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

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

5 §13A-12-214.4.

6 (a) A person commits the crime of unlawful
7 possession of marijuana in the third degree if, except as
8 otherwise authorized, he or she possesses less than one ounce
9 of marijuana.

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

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

14 (2) A third or subsequent offense of unlawful
15 possession of marijuana in the third degree is a violation
16 punishable only by a fine not to exceed five hundred dollars
17 (\$500).

18 (c) This section does not apply to edible
19 derivatives of a cannabis plant such as foods, drinks, and
20 candies.

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

23 §13A-12-214.5.

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

1 Section 3. Although this bill would have as its
2 purpose or effect the requirement of a new or increased
3 expenditure of local funds, the bill is excluded from further
4 requirements and application under Amendment 621, now
5 appearing as Section 111.05 of the Official Recompilation of
6 the Constitution of Alabama of 1901, as amended, because the
7 bill defines a new crime or amends the definition of an
8 existing crime.

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