

SB42 INTRODUCED



1 ZG25KW-1
2 By Senator Singleton
3 RFD: Judiciary
4 First Read: 07-Mar-23
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SYNOPSIS:

Under existing law, a person commits the crime of unlawful possession of marijuana in the first degree if he or she possesses marijuana for other than personal use or possesses marijuana for personal use only after having been previously convicted of unlawful possession in the second degree or unlawful possession of marijuana for his or her personal use only.

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

Under existing law, a person commits the crime of unlawful possession of marijuana in the second degree if he or she possesses marijuana for personal use only. Existing law also provides that the crime of unlawful possession of marijuana in the second degree is a Class A misdemeanor.

This bill would amend the crime of unlawful possession of marijuana in the second degree to provide that a person commits the crime if he or she possesses less than one ounce of marijuana and would reduce the criminal penalty to a violation, punishable by a fine.



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29 This bill would also provide that a person who
30 is charged with, found not guilty of, or convicted of
31 unlawful possession of marijuana in the first or second
32 degree may have that charge, finding, or conviction
33 expunged if he or she has not been convicted of a
34 felony, misdemeanor, or violation, excluding minor
35 traffic violations, within the last five years.

36 Section 111.05 of the Constitution of Alabama of
37 2022, prohibits a general law whose purpose or effect
38 would be to require a new or increased expenditure of
39 local funds from becoming effective with regard to a
40 local governmental entity without enactment by a 2/3
41 vote unless: it comes within one of a number of
42 specified exceptions; it is approved by the affected
43 entity; or the Legislature appropriates funds, or
44 provides a local source of revenue, to the entity for
45 the purpose.

46 The purpose or effect of this bill would be to
47 require a new or increased expenditure of local funds
48 within the meaning of the amendment. However, the bill
49 does not require approval of a local governmental
50 entity or enactment by a 2/3 vote to become effective
51 because it comes within one of the specified exceptions
52 contained in the amendment.

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A BILL

TO BE ENTITLED



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AN ACT

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Relating to crimes and offenses; to amend Sections 13A-12-213 and 13A-12-214, Code of Alabama 1975, to provide further for the crimes of unlawful possession of marijuana in the first and second degrees; to revise the criminal penalties; to provide for expungement of a charge, finding, or conviction, under certain conditions; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Section 111.05 of the Constitution of Alabama of 2022.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§13A-12-213

(a) A person commits the crime of unlawful possession of ~~marihuana~~marijuana in the first degree if, except as otherwise authorized~~+~~, he or she possesses one or more ounces of marijuana.

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

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

(b) Unlawful possession of ~~marihuana~~marijuana in the



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85 first degree ~~pursuant to subdivision (1) of subsection (a)~~ is
86 punishable as follows:

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

91 (2) Upon a second conviction of this section within the
92 preceding five years, the person is guilty of a Class C
93 misdemeanor, punishable only by a fine not to exceed five
94 hundred dollars (\$500).

95 (3) Upon a third or subsequent conviction of this
96 section within the preceding five years, the person is guilty
97 of a Class ~~C~~ felony, punishable only by a fine not to exceed
98 seven hundred fifty dollars (\$750).

99 ~~(c) Unlawful possession of marihuana in the first~~
100 ~~degree pursuant to subdivision (2) of subsection (a) is a~~
101 ~~Class D felony.~~ All fines and forfeitures collected upon
102 conviction or upon forfeiture of bail of any person charged
103 with a violation of this section shall be deposited into the
104 State Treasury to the credit of the State General Fund.

105 (d) Notwithstanding Chapter 27 of Title 15, a person
106 who has been charged with, found not guilty of, or convicted
107 of violating this section may file a petition in the criminal
108 division of any circuit court to expunge records related to
109 the charge, finding, or conviction when the person has not
110 been convicted of any other felony, misdemeanor, or violation,
111 excluding minor traffic violations, during the previous five
112 years. Upon the granting of a petition, the court shall order



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113 the expungement of all records of the person as provided in
114 Section 15-27-6."

115 "§13A-12-214

116 (a) A person commits the crime of unlawful possession
117 of ~~marihuana~~marijuana in the second degree if, except as
118 otherwise authorized, he or she possesses less than one ounce
119 of marijuana~~marihuana for his personal use only.~~

120 (b) Unlawful possession of ~~marihuana~~marijuana in the
121 second degree is a ~~Class A misdemeanor~~violation punishable
122 only by a fine not to exceed two hundred dollars (\$200).

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

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

129 "(e) Notwithstanding Chapter 27 of Title 15, a person
130 who has been charged with, found not guilty of, or convicted
131 of violating this section may file a petition in the criminal
132 division of any circuit court to expunge records related to
133 the charge, finding, or conviction when the person has not
134 been convicted of any other felony, misdemeanor, or violation,
135 excluding minor traffic violations, during the previous five
136 years. Upon the granting of a petition, the court shall order
137 the expungement of all records of the person as provided in
138 Section 15-27-6."

139 Section 2. Although this bill would have as its purpose
140 or effect the requirement of a new or increased expenditure of



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141 local funds, the bill is excluded from further requirements
142 and application under Section 111.05 of the Constitution of
143 Alabama of 2022, because the bill defines a new crime or
144 amends the definition of an existing crime.

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