

1 HB378  
2 188522-3  
3 By Representatives Harbison, Butler, Whorton (R), Pettus and  
4 Mooney  
5 RFD: Judiciary  
6 First Read: 06-FEB-18

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8 SYNOPSIS: Under existing law, unlawful distribution of  
9 a controlled substance is a Class B felony.

10 This bill would create McGough's Law to  
11 create the crime of drug delivery resulting in  
12 death. The bill would provide that when, without  
13 intent to cause death, a person directly or  
14 indirectly sells, furnishes, gives away, delivers,  
15 or distributes a controlled substance in violation  
16 of the law and the use of the controlled substance  
17 is a contributing cause of death of another to whom  
18 the controlled substance is directly or indirectly  
19 sold, furnished, given, delivered, or distributed,  
20 the person is guilty of the crime.

21 This bill would create the crime of drug  
22 delivery resulting in serious physical injury and  
23 would provide that when, without intent to cause  
24 serious physical injury, a person directly or  
25 indirectly sells, furnishes, gives away, delivers,  
26 or distributes a controlled substance in violation  
27 of the law and the use of the controlled substance

1 is a contributing cause of serious physical injury  
2 of another to whom the controlled substance is  
3 directly or indirectly sold, furnished, given,  
4 delivered, or distributed, the person is guilty of  
5 the crime.

6 This bill would specify that the bill does  
7 not apply to health care professionals and  
8 pharmacists who are in the legitimate practice of  
9 the healing arts.

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

23 The purpose or effect of this bill would be  
24 to require a new or increased expenditure of local  
25 funds within the meaning of the amendment. However,  
26 the bill does not require approval of a local  
27 governmental entity or enactment by a 2/3 vote to

1           become effective because it comes within one of the  
2           specified exceptions contained in the amendment.

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4                           A BILL  
5                           TO BE ENTITLED  
6                           AN ACT

7  
8           Relating to crimes and offenses; to create McGough's  
9   Law; to add Section 13A-6-5 to the Code of Alabama 1975, to  
10   create the crime of drug delivery resulting in death; to add  
11   Section 13A-6-20.1 to the Code of Alabama 1975, to create the  
12   crime of drug delivery resulting in serious physical injury;  
13   and in connection therewith would have as its purpose or  
14   effect the requirement of a new or increased expenditure of  
15   local funds within the meaning of Amendment 621 of the  
16   Constitution of Alabama of 1901, now appearing as Section  
17   111.05 of the Official Recompilation of the Constitution of  
18   Alabama of 1901, as amended.

19   BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20           Section 1. This act shall be known and may be cited  
21   as McGough's Law.

22           Section 2. Section 13A-6-5 is added to the Code of  
23   Alabama 1975, to read as follows:

24           §13A-6-5.

25           (a) A person commits the crime of drug delivery  
26   resulting in death when, without intent to cause death, the  
27   person directly or indirectly sells, furnishes, gives away,

1 delivers, or distributes a controlled substance in violation  
2 of subsection (a) of Section 13A-12-211, Code of Alabama 1975,  
3 and the use of the controlled substance is a contributing  
4 cause of death of another to whom the controlled substance is  
5 directly or indirectly sold, furnished, given, delivered, or  
6 distributed.

7 (b) Drug delivery resulting in death is a Class B  
8 felony

9 (c) This section shall not be construed to repeal  
10 other criminal laws.

11 (d) This section shall not apply to health care  
12 professionals and pharmacists in the legitimate practice of  
13 the healing arts.

14 Section 3. Section 13A-6-20.1 is added to the Code  
15 of Alabama 1975, to read as follows:

16 (a) A person commits the crime of drug delivery  
17 resulting in serious physical injury when, without intent to  
18 cause serious physical injury, the person directly or  
19 indirectly sells, furnishes, gives away, delivers, or  
20 distributes a controlled substance in violation of subsection  
21 (a) of Section 13A-12-211, Code of Alabama 1975, and the use  
22 of the controlled substance is a contributing cause of serious  
23 physical injury of another to whom the controlled substance is  
24 directly or indirectly sold, furnished, given, delivered, or  
25 distributed.

26 (b) Drug delivery resulting in serious physical  
27 injury is a Class B felony.

1           (c) This section shall not be construed to repeal  
2 other criminal laws.

3           (d) This section shall not apply to health care  
4 professionals and pharmacists in the legitimate practice of  
5 the healing arts.

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

14           Section 5. This act shall become effective on the  
15 first day of the third month following its passage and  
16 approval by the Governor, or its otherwise becoming law.