

1 HB516
2 195259-1
3 By Representatives Mooney, Weaver, Fridy, Ellis, Farley, Carns
4 and Drake
5 RFD: Judiciary
6 First Read: 25-APR-19

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8 SYNOPSIS: This bill would provide criminal and civil
9 penalties for the following: (1) Selling, giving
10 away, distributing, or marketing or transporting
11 into this state human or synthetic urine with the
12 intent to defraud or cause deceitful results in a
13 drug or alcohol screening test; (2) attempting to
14 defeat a screening test by the substitution or
15 spiking of a urine sample; (3) advertising or
16 selling any product designed to thwart or defeat a
17 screening test; (4) adulterating a urine sample
18 with intent to defraud a screening test; (5)
19 possessing adulterants intended to be used to
20 adulterate a urine or other bodily fluid sample for
21 the purpose of defrauding or causing deceitful
22 results in a screening test; and (6) selling or
23 marketing an adulterant with the intent by the
24 seller or marketer that the product be used to
25 adulterate a urine or other bodily fluid sample.

26 Amendment 621 of the Constitution of Alabama
27 of 1901, now appearing as Section 111.05 of the

1 Official ReCompilation of the Constitution of
2 Alabama of 1901, as amended, prohibits a general
3 law whose purpose or effect would be to require a
4 new or increased expenditure of local funds from
5 becoming effective with regard to a local
6 governmental entity without enactment by a 2/3 vote
7 unless: it comes within one of a number of
8 specified exceptions; it is approved by the
9 affected entity; or the Legislature appropriates
10 funds, or provides a local source of revenue, to
11 the entity for the purpose.

12 The purpose or effect of this bill would be
13 to require a new or increased expenditure of local
14 funds within the meaning of the amendment. However,
15 the bill does not require approval of a local
16 governmental entity or enactment by a 2/3 vote to
17 become effective because it comes within one of the
18 specified exceptions contained in the amendment.

19
20 A BILL
21 TO BE ENTITLED
22 AN ACT
23

24 To prohibit the sale or distribution of human or
25 synthetic urine; to prohibit the substitution of a urine
26 sample to defeat drug and alcohol screening tests; to prohibit
27 the advertising or selling of products designed to defeat a

1 screening test; to prohibit the possession, marketing, or sale
2 of certain adulterants of bodily fluid samples; to provide
3 criminal and civil penalties; and in connection therewith
4 would have as its purpose or effect the requirement of a new
5 or increased expenditure of local funds within the meaning of
6 Amendment 621 of the Constitution of Alabama of 1901, now
7 appearing as Section 111.05 of the Official Recompilation of
8 the Constitution of Alabama of 1901, as amended.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. (a) As used in this act, the following
11 terms shall have the following meanings:

12 (1) ADULTERANT. A substance that is not expected to
13 be in human urine or a substance expected to be present in
14 human urine but that is at a concentration so high that it is
15 not consistent with human urine, including, but not limited
16 to, any of the following:

- 17 a. Bleach.
- 18 b. Chromium.
- 19 c. Creatinine.
- 20 d. Detergent.
- 21 e. Glutaraldehyde.
- 22 f. Glutaraldehyde/squalene.
- 23 g. Hydrochloric acid.
- 24 h. Hydroiodic acid.
- 25 i. Iodine.
- 26 j. Nitrite.
- 27 k. Peroxidase.

1 1. Potassium dichromate.

2 m. Potassium nitrite.

3 n. Pyridinium chlorochromate.

4 (2) DRUG OR ALCOHOL SCREENING TEST. An analysis of
5 sample of bodily fluid collected from a person for the purpose
6 of detecting the presence of alcohol or drugs in the bodily
7 fluid of the person.

8 (3) PERSON. As that term is defined in Section
9 13A-1-2, Code of Alabama 1975.

10 (4) SYNTHETIC URINE. Any substance that is designed
11 to simulate the composition, chemical properties, physical
12 appearance, or physical properties of human urine for the
13 purpose of defrauding a drug or alcohol screening test.

14 (b) It is unlawful for a person to do any of the
15 following:

16 (1) Sell, give away, distribute, market or transport
17 into this state human or synthetic urine with the intent to
18 defraud or cause deceitful results in a drug or alcohol
19 screening test.

20 (2) Attempt to thwart or defeat a drug or alcohol
21 screening test by the substitution or spiking of a urine
22 sample.

23 (3) Advertise for sale any product designed to
24 thwart or defeat a drug or alcohol screening test.

25 (4) Adulterate a urine or other bodily fluid sample
26 with the intent to defraud or cause deceitful results in a
27 drug or alcohol screening test.

1 (5) Possess adulterants which are intended to be
2 used to adulterate a urine or other bodily fluid sample for
3 the purpose of defrauding or causing deceitful results in a
4 drug or alcohol screening test.

5 (6) Sell or market an adulterant with the intent by
6 the seller or marketer that the product be used to adulterate
7 a urine or other bodily fluid sample for the purpose of
8 defrauding or causing deceitful results in a drug or alcohol
9 screening test.

10 (c) Intent to defraud or cause deceitful results in
11 a drug or alcohol screening test is presumed under either of
12 the following circumstances:

13 (1) A heating element or any other device used to
14 thwart a drug or alcohol screening test accompanies the
15 possession, sale, giving, distribution, or marketing of human
16 or synthetic urine.

17 (2) Instructions that provide a method for thwarting
18 or defeating a drug or alcohol screening test accompany the
19 possession, sale, giving, distribution, or marketing of urine.

20 (d) A violation of subsection (b) shall be punished
21 as a violation, except a second or subsequent offense, shall
22 be a Class A misdemeanor. The penalty imposed for violation of
23 this act is in addition to and not in lieu of any civil or
24 administrative penalty or sanction as provided in this act or
25 otherwise authorized by law.

26 Section 2. (a) Whenever the Attorney General or
27 district attorney for the appropriate jurisdiction has reason

1 to believe that any person is or has been violating any
2 provision of this act, he or she or his or her deputy or
3 assistant may issue and deliver to the person an order to
4 cease and desist the violation.

5 (b) Failure to comply with any order under this
6 section shall subject the person to a civil penalty not to
7 exceed one thousand dollars (\$1,000) for each day the
8 violation exists, to be deposited into the State General Fund.

9 (c) The statute of limitations for civil actions
10 pursuant to this section shall be one year. The Attorney
11 General or district attorney for the appropriate jurisdiction
12 may prosecute violations of this act. Venue for cases
13 involving violations of this act shall be in the county in
14 which the violation occurred or the county in which the
15 alleged violator resides or is incorporated. If the alleged
16 violator resides or is incorporated outside of the State of
17 Alabama, or if the violation or violations occurred outside
18 the State of Alabama, venue shall be in Montgomery County. Of
19 the civil penalties deposited into the State General Fund
20 pursuant to subsection (b), 40 percent shall be deposited into
21 the Office of Prosecution Services Fund in the State Treasury
22 to be distributed to the district attorney who initiated the
23 action.

24 Section 3. Although this bill would have as its
25 purpose or effect the requirement of a new or increased
26 expenditure of local funds, the bill is excluded from further
27 requirements and application under Amendment 621, now

1 appearing as Section 111.05 of the Official ReCompilation of
2 the Constitution of Alabama of 1901, as amended, because the
3 bill defines a new crime or amends the definition of an
4 existing crime.

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