

1 SB7
2 179001-1
3 By Senator Brewbaker
4 RFD: Judiciary
5 First Read: 07-FEB-17
6 PFD: 09/13/2016

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8 SYNOPSIS: Under existing law, a person who knowingly
9 sells, manufacturers, delivers, or brings into the
10 state, or who is knowingly in actual or
11 constructive possession of more than one kilo or
12 2.2 pounds of any part of the genus cannabis is
13 guilty of the crime of trafficking in cannabis.
14 Under existing law, a person convicted of
15 trafficking more than one kilo or 2.2 pounds, but
16 less than 100 pounds shall be sentenced to a
17 mandatory minimum term of three years imprisonment
18 and a fine of \$25,000.

19 This bill would raise the minimum amount of
20 cannabis a person must sell, manufacture, or
21 deliver, or knowingly be in actual or constructive
22 possession of, in order to be convicted of
23 trafficking to 4.5 kilos or 10 pounds. This bill
24 would adjust the penalty for a conviction of
25 trafficking more than 4.5 kilos or 10 pounds
26 accordingly.

1 Amendment 621 of the Constitution of Alabama
2 of 1901 prohibits a general law whose purpose or
3 effect would be to require a new or increased
4 expenditure of local funds from becoming effective
5 with regard to a local governmental entity without
6 enactment by a 2/3 vote unless: it comes within one
7 of a number of specified exceptions; it is approved
8 by the affected entity; or the Legislature
9 appropriates funds, or provides a local source of
10 revenue, to the entity for the purpose.

11 The purpose or effect of this bill would be
12 to require a new or increased expenditure of local
13 funds within the meaning of Amendment 621. However,
14 the bill does not require approval of a local
15 governmental entity or enactment by a 2/3 vote to
16 become effective because it comes within one of the
17 specified exceptions contained in Amendment 621.

18
19 A BILL

20 TO BE ENTITLED

21 AN ACT

22
23 To amend Section 13A-12-231, Code of Alabama 1975,
24 to further define trafficking of cannabis; and in connection
25 therewith would have as its purpose or effect the requirement
26 of a new or increased expenditure of local funds within the

1 meaning of Amendment 621 of the Constitution of Alabama of
2 1901.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 13A-12-231, Code of Alabama 1975,
5 is amended to read as follows:

6 "§13A-12-231.

7 "Except as authorized in Chapter 2, Title 20:

8 "(1) Any person who knowingly sells, manufactures,
9 delivers, or brings into this state, or who is knowingly in
10 actual or constructive possession of, in excess of ~~one kilo or~~
11 ~~2.2~~ 4.5 kilos or 10 pounds of any part of the plant of the
12 genus Cannabis, whether growing or not, the seeds thereof, the
13 resin extracted from any part of the plant, and every
14 compound, manufacture, salt, derivative, mixture, or
15 preparation of the plant, its seeds, or resin including the
16 completely defoliated mature stalks of the plant, fiber
17 produced from the stalks, oil, or cake, or the completely
18 sterilized samples of seeds of the plant which are incapable
19 of germination is guilty of a felony, which felony shall be
20 known as "trafficking in cannabis." Nothing in this
21 subdivision shall apply to samples of tetrahydrocannabinols
22 including, but not limited to, all synthetic or naturally
23 produced samples of tetrahydrocannabinols which contain more
24 than 15 percent by weight of tetrahydrocannabinols and which
25 do not contain plant material exhibiting the external
26 morphological features of the plant cannabis. If the quantity
27 of cannabis involved:

1 "a. Is in excess of ~~one kilo or 2.2~~ 4.5 kilos or 10
2 pounds, but less than 100 pounds, the person shall be
3 sentenced to a mandatory minimum term of imprisonment of three
4 calendar years and to pay a fine of twenty-five thousand
5 dollars (\$25,000).

6 "b. Is 100 pounds or more, but less than 500 pounds,
7 the person shall be sentenced to a mandatory minimum term of
8 imprisonment of five calendar years and to pay a fine of fifty
9 thousand dollars (\$50,000).

10 "c. Is 500 pounds or more, but less than 1,000
11 pounds, the person shall be sentenced to a mandatory minimum
12 term of imprisonment of 15 calendar years and to pay a fine of
13 two hundred thousand dollars (\$200,000).

14 "d. Is 1,000 pounds or more, the person shall be
15 sentenced to a mandatory term of imprisonment of life without
16 parole.

17 "(2) Any person who knowingly sells, manufactures,
18 delivers, or brings into this state, or who is knowingly in
19 actual or constructive possession of, 28 grams or more of
20 cocaine or of any mixture containing cocaine, described in
21 Section 20-2-25(1), is guilty of a felony, which felony shall
22 be known as "trafficking in cocaine." If the quantity
23 involved:

24 "a. Is 28 grams or more, but less than 500 grams,
25 the person shall be sentenced to a mandatory minimum term of
26 imprisonment of three calendar years and to pay a fine of
27 fifty thousand dollars (\$50,000).

1 "b. Is 500 grams or more, but less than one kilo,
2 the person shall be sentenced to a mandatory minimum term of
3 imprisonment of five calendar years and to pay a fine of one
4 hundred thousand dollars (\$100,000).

5 "c. Is one kilo, but less than 10 kilos, then the
6 person shall be sentenced to a mandatory minimum term of
7 imprisonment of 15 calendar years and to pay a fine of two
8 hundred fifty thousand dollars (\$250,000).

9 "d. Is 10 kilos or more, the person shall be
10 sentenced to a mandatory term of imprisonment of life without
11 parole.

12 "(3) Any person who knowingly sells, manufactures,
13 delivers, or brings into this state, or who is knowingly in
14 actual or constructive possession of, four grams or more of
15 any morphine, opium, or any salt, isomer, or salt of an isomer
16 thereof, including heroin, as described in Section
17 20-2-23(b) (2) or Section 20-2-25(1)a., or four grams or more
18 of any mixture containing any such substance, is guilty of a
19 felony, which felony shall be known as "trafficking in illegal
20 drugs." If the quantity involved:

21 "a. Is four grams or more, but less than 14 grams,
22 the person shall be sentenced to a mandatory minimum term of
23 imprisonment of three calendar years and to pay a fine of
24 fifty thousand dollars (\$50,000).

25 "b. Is 14 grams or more, but less than 28 grams, the
26 person shall be sentenced to a mandatory minimum term of

1 imprisonment of 10 calendar years and to pay a fine of one
2 hundred thousand dollars (\$100,000).

3 "c. Is 28 grams or more, but less than 56 grams, the
4 person shall be sentenced to a mandatory minimum term of
5 imprisonment of 25 calendar years and to pay a fine of five
6 hundred thousand dollars (\$500,000).

7 "d. Is 56 grams or more, the person shall be
8 sentenced to a mandatory term of imprisonment of life without
9 parole.

10 "(4) Any person who knowingly sells, manufactures,
11 delivers, or brings into this state, or who is knowingly in
12 actual or constructive possession of 1,000 or more pills or
13 capsules of methaqualone, as described in Section 20-2-1, et
14 seq., is guilty of a felony, which felony shall be known as
15 "trafficking in illegal drugs." If the quantity involved:

16 "a. Is 1,000 pills or capsules, but less than 5,000
17 pills or capsules, the person shall be sentenced to a
18 mandatory minimum term of imprisonment of three calendar years
19 and pay a fine of fifty thousand dollars (\$50,000).

20 "b. Is 5,000 capsules or more, but less than 25,000
21 capsules, that person shall be imprisoned to a mandatory
22 minimum term of imprisonment of 10 calendar years and pay a
23 fine of one hundred thousand dollars (\$100,000).

24 "c. Is 25,000 pills or more, but less than 100,000
25 pills or capsules, the person shall be sentenced to a
26 mandatory minimum term of imprisonment of 25 calendar years
27 and pay a fine of five hundred thousand dollars (\$500,000).

1 "d. Is 100,000 capsules or more, the person shall be
2 sentenced to a mandatory term of imprisonment of life without
3 parole.

4 "(5) Any person who knowingly sells, manufactures,
5 delivers or brings into this state, or who is knowingly in
6 actual or constructive possession of 500 or more pills or
7 capsules of hydromorphone as is described in Section 20-2-1,
8 et seq., is guilty of a felony which shall be known as
9 "trafficking in illegal drugs." If the quantity involved:

10 "a. Is 500 pills or capsules or more but less than
11 1,000 pills or capsules, the person shall be sentenced to a
12 mandatory term of imprisonment of three calendar years and to
13 pay a fine of fifty thousand dollars (\$50,000).

14 "b. Is 1,000 pills or capsules or more, but less
15 than 4,000 pills or capsules, the person shall be sentenced to
16 a mandatory term of imprisonment of 10 calendar years and to
17 pay a fine of one hundred thousand dollars (\$100,000).

18 "c. Is 4,000 pills or capsules or more but less than
19 10,000 pills or capsules, the person shall be sentenced to a
20 mandatory term of imprisonment of 25 calendar years and to pay
21 a fine of one hundred thousand dollars (\$100,000).

22 "d. Is more than 10,000 pills or capsules, the
23 person shall be sentenced to a mandatory term of life in
24 prison without parole.

25 "(6) Any person who knowingly sells, manufactures,
26 delivers, or brings into this state, or who is knowingly in
27 actual or constructive possession of, 28 grams or more of

1 3,4-methylenedioxy amphetamine, or of any mixture containing
2 3,4-methylenedioxy amphetamine, is guilty of a felony, which
3 felony shall be known as "trafficking in illegal drugs." If
4 the quantity involved:

5 "a. Is 28 grams or more, but less than 500 grams,
6 the person shall be sentenced to a mandatory minimum term of
7 imprisonment of three calendar years and to pay a fine of
8 fifty thousand dollars (\$50,000).

9 "b. Is 500 grams or more, but less than one kilo,
10 the person shall be sentenced to a mandatory minimum term of
11 imprisonment of five calendar years and to pay a fine of one
12 hundred thousand dollars (\$100,000).

13 "c. Is one kilo, but less than 10 kilos, then the
14 person shall be sentenced to a mandatory minimum term of
15 imprisonment of 15 calendar years and to pay a fine of two
16 hundred fifty thousand dollars (\$250,000).

17 "d. Is 10 kilos or more, the person shall be
18 sentenced to a mandatory term of imprisonment of life without
19 parole.

20 "(7) Any person who knowingly sells, manufactures,
21 delivers, or brings into this state, or who is knowingly in
22 actual or constructive possession of, 28 grams or more of
23 5-methoxy-3, 4-methylenedioxy amphetamine, or of any mixture
24 containing 5-methoxy-3, 4-methylenedioxy amphetamine is guilty
25 of a felony, which felony shall be known as "trafficking in
26 illegal drugs" if the quantity involved:

1 "a. Is 28 grams or more, but less than 500 grams,
2 the person shall be sentenced to a mandatory minimum term of
3 imprisonment of three calendar years and to pay a fine of
4 fifty thousand dollars (\$50,000).

5 "b. Is 500 grams or more, but less than one kilo,
6 the person shall be sentenced to a mandatory minimum term of
7 imprisonment of five calendar years and to pay a fine of one
8 hundred thousand dollars (\$100,000).

9 "c. Is one kilo, but less than 10 kilos, then the
10 person shall be sentenced to a mandatory minimum term of
11 imprisonment of 15 calendar years and to pay a fine of two
12 hundred fifty thousand dollars (\$250,000).

13 "d. Is 10 kilos or more, the person shall be
14 sentenced to a mandatory term of imprisonment of life without
15 parole.

16 "(8) Any person who knowingly sells, manufactures,
17 delivers, or brings into this state, or who is knowingly in
18 actual or constructive possession of, four grams or more of
19 phencyclidine, or any mixture containing phencyclidine, is
20 guilty of a felony, which felony shall be known as
21 "trafficking in illegal drugs." If the quantity involved:

22 "a. Is four grams or more, but less than 14 grams,
23 the person shall be sentenced to a mandatory minimum term of
24 imprisonment of three calendar years and to pay a fine of
25 fifty thousand dollars (\$50,000).

26 "b. Is 14 grams or more, but less than 28 grams, the
27 person shall be sentenced to a mandatory minimum term of

1 imprisonment of five calendar years and to pay a fine of one
2 hundred thousand dollars (\$100,000).

3 "c. Is 28 grams or more, but less than 56 grams,
4 then the person shall be sentenced to a mandatory minimum term
5 of imprisonment of 15 calendar years and to pay a fine of two
6 hundred fifty thousand dollars (\$250,000).

7 "d. Is 56 grams or more, the person shall be
8 sentenced to a mandatory term of imprisonment of life without
9 parole.

10 "(9) Any person who knowingly sells, manufactures,
11 delivers, or brings into this state, or who is knowingly in
12 actual or constructive possession of, four grams or more of
13 lysergic acid diethylamide, of four grams or more of any
14 mixture containing lysergic acid diethylamide, is guilty of a
15 felony, which felony shall be known as "trafficking in illegal
16 drugs." If the quantity involved:

17 "a. Is four grams or more, but less than 14 grams,
18 the person shall be sentenced to a mandatory minimum term of
19 imprisonment of three calendar years and to pay a fine of
20 fifty thousand dollars (\$50,000).

21 "b. Is 14 grams or more, but less than 28 grams, the
22 person shall be sentenced to a mandatory minimum term of
23 imprisonment of 10 calendar years and to pay a fine of one
24 hundred thousand dollars (\$100,000).

25 "c. Is 28 grams or more, but less than 56 grams, the
26 person shall be sentenced to a mandatory minimum term of

1 imprisonment of 25 calendar years and to pay a fine of five
2 hundred thousand dollars (\$500,000).

3 "d. Is 56 grams or more, the person shall be
4 sentenced to a mandatory term of imprisonment of life without
5 parole.

6 "(10) Any person who knowingly sells, manufactures,
7 delivers or brings into this state, or who is knowingly in
8 actual or constructive possession of, 28 grams or more of
9 amphetamine or any mixture containing amphetamine, its salt,
10 optical isomer, or salt of its optical isomer thereof, is
11 guilty of a felony, which felony shall be known as
12 "trafficking in amphetamine." If the quantity involved:

13 "a. Is 28 grams or more but less than 500 grams, the
14 person shall be sentenced to a mandatory minimum term of
15 imprisonment of three calendar years and to pay a fine of
16 fifty thousand dollars (\$50,000).

17 "b. Is 500 grams or more, but less than one kilo,
18 the person shall be sentenced to a mandatory minimum term of
19 imprisonment of five calendar years and to pay a fine of one
20 hundred thousand dollars (\$100,000).

21 "c. Is one kilo but less than 10 kilos, then the
22 person shall be sentenced to a mandatory minimum term of
23 imprisonment of 15 calendar years and to pay a fine of two
24 hundred fifty thousand dollars (\$250,000).

25 "d. Is 10 kilos or more, the person shall be
26 sentenced to a mandatory term of imprisonment of life without
27 parole.

1 "(11) Any person who knowingly sells, manufactures,
2 delivers, or brings into this state, or who is knowingly in
3 actual or constructive possession of, 28 grams or more of
4 methamphetamine or any mixture containing methamphetamine, its
5 salts, optical isomers, or salt of its optical isomers
6 thereof, is guilty of a felony, which felony shall be known as
7 "trafficking in methamphetamine." If the quantity involved:

8 "a. Is 28 grams or more but less than 500 grams, the
9 person shall be sentenced to a mandatory minimum term of
10 imprisonment of three calendar years and to pay a fine of
11 fifty thousand dollars (\$50,000).

12 "b. Is 500 grams or more, but less than one kilo,
13 the person shall be sentenced to a mandatory minimum term of
14 imprisonment of five calendar years and to pay a fine of one
15 hundred thousand dollars (\$100,000).

16 "c. Is one kilo but less than 10 kilos, then the
17 person shall be sentenced to a mandatory minimum term of
18 imprisonment of 15 calendar years and to pay a fine of two
19 hundred fifty thousand dollars (\$250,000).

20 "d. Is 10 kilos or more, the person shall be
21 sentenced to a mandatory term of imprisonment of life without
22 parole.

23 "(12) Any person who knowingly sells, manufactures,
24 delivers, or brings into this state, or who is knowingly in
25 actual or constructive possession of 56 or more grams of a
26 synthetic controlled substance or a synthetic controlled
27 substance analogue, as described in subdivision (4) or (5) of

1 subsection (a) of Section 20-2-23, is guilty of a felony,
2 which felony shall be known as "trafficking in synthetic
3 controlled substances." If the quantity involved:

4 "a. Is 56 grams or more, but less than 500 grams,
5 the person shall be sentenced to a mandatory minimum term of
6 imprisonment of three calendar years and to pay a fine of
7 fifty thousand dollars (\$50,000).

8 "b. Is 500 grams or more, but less than 1 kilo, the
9 person shall be sentenced to a mandatory minimum term of
10 imprisonment of 10 calendar years and to pay a fine of one
11 hundred thousand dollars (\$100,000).

12 "c. Is one kilo, but less than 10 kilos, then the
13 person shall be sentenced to a mandatory minimum term of
14 imprisonment of 15 calendar years and to pay a fine of two
15 hundred fifty thousand dollars (\$250,000).

16 "d. Is 10 kilos or more, the person shall be
17 sentenced to a mandatory term of imprisonment of life without
18 parole.

19 "(13) The felonies of "trafficking in cannabis,"
20 "trafficking in cocaine," "trafficking in illegal drugs,"
21 "trafficking in amphetamine," "trafficking in
22 methamphetamine," and "trafficking in synthetic controlled
23 substances" as defined in subdivisions (1) through (12),
24 above, shall be treated as Class A felonies for purposes of
25 Title 13A, including sentencing under Section 13A-5-9.
26 Provided, however, that the sentence of imprisonment for a
27 defendant with one or more prior felony convictions who

1 violates subdivisions (1) through (12) of this section shall
2 be the sentence provided therein, or the sentence provided
3 under Section 13A-5-9, whichever is greater. Provided further,
4 that the fine for a defendant with one or more prior felony
5 convictions who violates subdivisions (1) through (12) of this
6 section shall be the fine provided therein, or the fine
7 provided under Section 13A-5-9, whichever is greater.

8 "(14) Notwithstanding any provision of law to the
9 contrary, any person who has possession of a firearm during
10 the commission of any act proscribed by this section shall be
11 punished by a term of imprisonment of five calendar years
12 which shall be in addition to, and not in lieu of, the
13 punishment otherwise provided, and a fine of twenty-five
14 thousand dollars (\$25,000); the court shall not suspend the
15 five-year additional sentence of the person or give the person
16 a probationary sentence."

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 because the
21 bill defines a new crime or amends the definition of an
22 existing crime.

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