

1 HB486
2 156920-1
3 By Representative Todd
4 RFD: Judiciary
5 First Read: 13-FEB-14

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8 SYNOPSIS: Under existing law, the possession of
9 marijuana is a crime.

10 This bill would provide that the possession
11 of one ounce or less of marijuana is a civil
12 penalty.

13
14 A BILL
15 TO BE ENTITLED
16 AN ACT

17
18 Relating to marijuana possession; to provide that
19 the possession of one ounce or less of marijuana is a civil
20 penalty.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. This act shall be known and may be cited
23 as the Alabama Marijuana Decriminalization Act.

24 Section 2. (a) Notwithstanding Sections 13A-12-213
25 and 13A-12-214, Code of Alabama 1975, possession of one ounce
26 or less of marijuana shall only be a civil offense, subjecting
27 an offender who is 18 years of age or older to a civil penalty

1 of one hundred dollars (\$100) and forfeiture of the marijuana,
2 but not to any other form of criminal or civil punishment or
3 disqualification. Unpaid fines shall double if not paid within
4 90 days of the offense. An offender under the age of 18 shall
5 be subject to the same forfeiture of the marijuana, but a
6 civil penalty and fine shall be imposed only if he or she
7 fails to complete a drug awareness program that meets the
8 criteria set forth in Section 3. The parents or legal guardian
9 of any offender under the age of 18 shall be notified of the
10 offense and of available drug awareness programs. If an
11 offender under the age of 18, within one year of such notice
12 of available programs, fails to complete a drug awareness
13 program, a civil penalty of up to three hundred fifty dollars
14 (\$350) may be imposed.

15 (b) Except as specifically provided in this section,
16 neither the state nor any of its political subdivisions or
17 their respective agencies, authorities, or instrumentalities
18 may impose any form of penalty, sanction, restriction, or
19 disqualification on a person for possessing one ounce or less
20 of marijuana or paraphernalia for marijuana use, nor may any
21 penalties or obligations exceeding those outlined in
22 subsection (a) be imposed by the state nor any of its
23 political subdivisions or their respective agencies,
24 authorities, or instrumentalities solely for having
25 cannabinoids or cannabinoid metabolites in the urine, blood,
26 sweat, hair, fingernails, toenails, or other tissue or fluid
27 of the human body. By way of illustration rather than

1 limitation, neither possession of one ounce or less of
2 marijuana, nor possession of paraphernalia for marijuana use,
3 nor the presence of cannabinoids or cannabinoid metabolites in
4 the urine, blood, sweat, hair, fingernails, toenails, or other
5 tissue or fluid of the human body, provide a basis to deny a
6 person student financial aid, public housing, or any form of
7 public financial assistance including unemployment benefits,
8 to deny a person the right to operate a motor vehicle, or to
9 disqualify a person from serving as a foster parent or
10 adoptive parent. However, nothing contained herein shall be
11 construed to repeal or modify existing laws, ordinances,
12 bylaws, regulations, personnel practices, or policies
13 concerning the operation of motor vehicles or other actions
14 taken while under the influence of marijuana. Information
15 concerning the offense of possession of one ounce or less of
16 marijuana shall not be recorded in any database of criminal
17 offenders.

18 (c) As used in this section, "possession of one
19 ounce or less of marijuana" includes possession of one ounce
20 or less of marijuana, or any mixture or preparation thereof,
21 including, but not limited to, five grams or less of hashish,
22 but does not include the weight of other ingredients in
23 marijuana prepared for consumption as food or drink.

24 "Possession of one ounce or less of marijuana" includes the
25 possession of paraphernalia for the ingestion, use,
26 inhalation, preparation, or storage of marijuana for personal
27 use.

1 (d) Nothing contained in this section shall be
2 construed to repeal or modify any law concerning the medical
3 use of marijuana or tetrahydrocannabinol in any other form,
4 such as Marinol, or the possession of more than one ounce of
5 marijuana, or selling, manufacturing, or trafficking of
6 marijuana.

7 (e) Nothing contained in this section shall prohibit
8 a political subdivision of the state from enacting ordinances
9 or bylaws regulating or prohibiting the consumption of
10 marijuana or tetrahydrocannabinol in public places and
11 providing for additional penalties for the public use of
12 marijuana, provided that any such additional penalties are no
13 greater than those related to the public consumption of
14 alcohol.

15 (f) Possession of one ounce or less of marijuana
16 shall not be considered a violation of parole or probation.

17 (g) Any individual in possession of an
18 identification card, license, or other form of identification
19 issued by this state or any state, municipality, or any
20 college or university, who fails to produce the same upon
21 request of a police officer who informs the individual that he
22 or she has been found in possession of what appears to the
23 officer to be an ounce or less of marijuana, or any individual
24 without any such form of identification who fails or refuses
25 to truthfully provide his or her name, address, and date of
26 birth to a police officer who has informed such individual
27 that the officer intends to provide the person with a citation

1 for possession of an ounce or less of marijuana may be
2 arrested.

3 Section 3. (a) An offender under the age of 18 is
4 required to complete a drug awareness program within one year
5 of his or her parents or legal guardian being given notice of
6 the offense and available drug awareness programs. Failure of
7 such an offender to complete such a program may be a basis for
8 imposing a civil penalty of up to three hundred fifty dollars
9 (\$350), as authorized by subsection (a) of Section 2.

10 (b) A drug awareness program shall provide at least
11 four hours of classroom instruction or group discussion and 10
12 hours of community service. In addition to the programs and
13 curricula it must maintain, the Department of Public Health
14 shall develop a compliant drug awareness program. The subject
15 matter of such drug awareness program shall be specific to the
16 use and abuse of marijuana, alcohol, and controlled
17 substances. The Department of Public Health shall set fees for
18 the program sufficient to cover all costs of administering the
19 program, which may not exceed one hundred fifty dollars
20 (\$150). All fees shall be payable by the offender upon entry
21 in the drug awareness program.

22 Section 4. (a) A copy of the notice delivered to an
23 offender under the age of 18 shall be mailed or delivered to
24 at least one of the offender's parents having custody of the
25 offender or, where there is no such person, to the offender's
26 legal guardian at the parent's or legal guardian's last known
27 address. If an offender under the age of 18, or a parent or

1 legal guardian, fails to file with the clerk of the
2 appropriate court a certificate that the offender has
3 completed a drug awareness program in accordance with Section
4 3 within one year of the notification of the offense, the
5 clerk shall notify the offender, parent or guardian, and the
6 enforcing person who issued the original notice to the
7 offender that a hearing will be held to show cause why a civil
8 penalty of up to three hundred fifty dollars (\$350) should not
9 be imposed. Factors to be considered by the court in weighing
10 cause shall be limited to financial capacity to pay any
11 increase, the offender's ability to participate in a compliant
12 drug awareness program, the availability of a suitable drug
13 awareness program, and the offender's willingness to complete
14 the program within a time frame determined by the court.

15 Section 5. The provisions of this act are severable.
16 If any part of this act is declared invalid or
17 unconstitutional, that declaration shall not affect the part
18 which remains.

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