

1 HB430
2 137802-1
3 By Representative Boman
4 RFD: Judiciary
5 First Read: 28-FEB-12

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8 SYNOPSIS: Under existing law, a person commits the
9 crime of unlawful possession of marihuana in the
10 first degree if, except as otherwise authorized, he
11 or she possesses marihuana for other than personal
12 use or he or she possesses marihuana for personal
13 use and has been previously convicted of unlawful
14 possession of marihuana in the second degree.
15 Unlawful possession of marihuana in the first
16 degree is a Class C felony.

17 This bill would provide that a person
18 commits the crime of unlawful possession of
19 marihuana in the first degree based upon a prior
20 conviction of unlawful possession of marihuana in
21 the second degree if the prior conviction occurred
22 within five years of the subsequent conviction.

23 Amendment 621 of the Constitution of Alabama
24 of 1901, now appearing as Section 111.05 of the
25 Official Recompilation of the Constitution of
26 Alabama of 1901, as amended, prohibits a general
27 law whose purpose or effect would be to require a

1 new or increased expenditure of local funds from
2 becoming effective with regard to a local
3 governmental entity without enactment by a 2/3 vote
4 unless: it comes within one of a number of
5 specified exceptions; it is approved by the
6 affected entity; or the Legislature appropriates
7 funds, or provides a local source of revenue, to
8 the entity for the purpose.

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

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT
20

21 To amend Section 13A-12-213, Code of Alabama 1975,
22 relating to unlawful possession of marihuana; to further
23 define the crime of unlawful possession of marihuana in the
24 first degree when based upon a prior conviction of unlawful
25 possession of marihuana in the second degree; and in
26 connection therewith would have as its purpose or effect the
27 requirement of a new or increased expenditure of local funds

1 within the meaning of Amendment 621 of the Constitution of
2 Alabama of 1901, now appearing as Section 111.05 of the
3 Official Recompilation of the Constitution of Alabama of 1901,
4 as amended.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Section 13A-12-213, Code of Alabama 1975,
7 is amended to read as follows:

8 "§13A-12-213.

9 "(a) A person commits the crime of unlawful
10 possession of marihuana in the first degree if, except as
11 otherwise authorized:

12 "(1) He or she possesses marihuana for other than
13 personal use; or

14 "(2) He or she possesses marihuana for ~~his~~ personal
15 use only after having been previously convicted, within five
16 years, of unlawful possession of marihuana in the second
17 degree or unlawful possession of marihuana for ~~his~~ personal
18 use only.

19 "(b) Unlawful possession of marihuana in the first
20 degree is a Class C felony."

21 Section 2. Although this bill would have as its
22 purpose or effect the requirement of a new or increased
23 expenditure of local funds, the bill is excluded from further
24 requirements and application under Amendment 621, now
25 appearing as Section 111.05 of the Official Recompilation of
26 the Constitution of Alabama of 1901, as amended, because the

1 bill defines a new crime or amends the definition of an
2 existing crime.

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