

1 HB96  
2 196664-1  
3 By Representative Hall  
4 RFD: Judiciary  
5 First Read: 05-MAR-19

2  
3  
4  
5  
6  
7  
8 SYNOPSIS: Under existing law, a person commits the  
9 crime of unlawful possession of marijuana in the  
10 first degree and is guilty of a Class C felony if  
11 the person possesses marijuana for other than  
12 personal use. A person commits the crime of  
13 unlawful possession of marijuana in the first  
14 degree and is guilty of a Class D felony if the  
15 person possesses marijuana for personal use after  
16 having been previously convicted of unlawful  
17 possession in the second degree.

18 This bill would revise the crime of unlawful  
19 possession of marijuana in the first degree to  
20 eliminate references to personal use and provide  
21 that a person commits the crime if he or she  
22 possesses two or more ounces of marijuana. This  
23 bill would also provide that unlawful possession of  
24 marijuana in the first degree is a Class C felony.

25 Under existing law, a person commits the  
26 crime of unlawful possession of marijuana in the  
27 second degree and is guilty of a Class A

1           misdemeanor if he or she possesses any amount of  
2           marijuana for personal use only.

3           This bill would revise the crime of unlawful  
4           possession of marijuana in the second degree to  
5           eliminate references to personal use and provide  
6           that a person commits the crime if he or she  
7           possesses more than one ounce but less than two  
8           ounces of marijuana.

9           This bill would create the crime of  
10          possession of marijuana in the third degree for  
11          possession of one ounce or less of marijuana and  
12          would provide a fine for a violation based on the  
13          number of the person's prior convictions for  
14          possession of marijuana in the third degree.

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

1                   The purpose or effect of this bill would be  
2                   to require a new or increased expenditure of local  
3                   funds within the meaning of the amendment. However,  
4                   the bill does not require approval of a local  
5                   governmental entity or enactment by a 2/3 vote to  
6                   become effective because it comes within one of the  
7                   specified exceptions contained in the amendment.

8  
9                   A BILL  
10                  TO BE ENTITLED  
11                  AN ACT

12  
13                  To amend Sections 13A-12-213 and 13A-12-214, Code of  
14                  Alabama 1975, relating to the possession of marihuana in the  
15                  first and second degrees; to revise the elements of the crimes  
16                  and the criminal penalties; to add Sections 13A-12-214.4 and  
17                  13A-12-214.5, to the Code of Alabama 1975, to provide for the  
18                  unlawful possession of marihuana in the third degree; and in  
19                  connection therewith would have as its purpose or effect the  
20                  requirement of a new or increased expenditure of local funds  
21                  within the meaning of Amendment 621 of the Constitution of  
22                  Alabama of 1901, now appearing as Section 111.05 of the  
23                  Official Recompilation of the Constitution of Alabama of 1901,  
24                  as amended.

25                  BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26                  Section 1. Sections 13A-12-213 and 13A-12-214, Code  
27                  of Alabama 1975, are amended to read as follows:

1           "§13A-12-213.

2           "(a) A person commits the crime of unlawful  
3 possession of marihuana in the first degree if, except as  
4 otherwise authorized,

5           "~~(1) He he or she possesses two ounces or more of  
6 marihuana. for other than personal use; or~~

7           "~~(2) He or she possesses marihuana for his or her  
8 personal use only after having been previously convicted of  
9 unlawful possession of marihuana in the second degree or  
10 unlawful possession of marihuana for his or her personal use  
11 only.~~

12           "(b) Unlawful possession of marihuana in the first  
13 degree ~~pursuant to subdivision (1) of subsection (a)~~ is a  
14 Class C felony.

15           "~~(c) Unlawful possession of marihuana in the first  
16 degree pursuant to subdivision (2) of subsection (a) is a  
17 Class D felony.~~

18           "§13A-12-214.

19           "(a) A person commits the crime of unlawful  
20 possession of marihuana in the second degree if, except as  
21 otherwise authorized, he or she possesses more than one ounce  
22 but less than two ounces of marihuana ~~for his personal use~~  
23 only.

24           "(b) Unlawful possession of marihuana in the second  
25 degree is a Class A misdemeanor."

26           Section 2. Sections 13A-12-214.4 and 13A-12-214.5  
27 are added to the Code of Alabama 1975, to read as follows:

1 §13A-12-214.4.

2 (a) A person commits the crime of unlawful  
3 possession of marihuana in the third degree if, except as  
4 otherwise authorized, he or she possesses one ounce or less of  
5 marihuana.

6 (b) Notwithstanding Section 13A-5-12:

7 (1) A first or second offense of unlawful possession  
8 of marihuana in the third degree is a violation punishable  
9 only by a fine not to exceed two hundred fifty dollars (\$250).

10 (2) A third or subsequent offense of unlawful  
11 possession of marihuana in the third degree is a violation  
12 punishable only by a fine not to exceed five hundred dollars  
13 (\$500).

14 (c) A violation of this section alone shall not be  
15 accompanied by a charge pursuant to Section 13A-12-260.

16 §13A-12-214.5.

17 Nothing in Section 13A-12-214 or 13A-12-214.4 shall  
18 apply to the possession or use of Cannabidiol (CBD) as  
19 authorized under Section 13A-12-214.2 or Section 13A-12-214.3.

20 Section 3. Although this bill would have as its  
21 purpose or effect the requirement of a new or increased  
22 expenditure of local funds, the bill is excluded from further  
23 requirements and application under Amendment 621, now  
24 appearing as Section 111.05 of the Official Recompilation of  
25 the Constitution of Alabama of 1901, as amended, because the  
26 bill defines a new crime or amends the definition of an  
27 existing crime.

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