

1 HB376  
2 136983-1  
3 By Representatives Galliher, Ball, Treadaway and McCutcheon  
4 RFD: Judiciary  
5 First Read: 21-FEB-12

2  
3  
4  
5  
6  
7  
8 SYNOPSIS: Under existing law, the crime of unlawful  
9 possession of a controlled substance is a Class C  
10 felony.

11 This bill would create the crime of  
12 possession of a controlled substance with intent to  
13 distribute a Class B felony.

14 Amendment 621 of the Constitution of Alabama  
15 of 1901, now appearing as Section 111.05 of the  
16 Official Recompilation of the Constitution of  
17 Alabama of 1901, as amended, prohibits a general  
18 law whose purpose or effect would be to require a  
19 new or increased expenditure of local funds from  
20 becoming effective with regard to a local  
21 governmental entity without enactment by a 2/3 vote  
22 unless: it comes within one of a number of  
23 specified exceptions; it is approved by the  
24 affected entity; or the Legislature appropriates  
25 funds, or provides a local source of revenue, to  
26 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 create the crime of possession of a controlled  
14                   substance with intent to distribute; criminal penalties; and  
15                   in connection therewith would have as its purpose or effect  
16                   the requirement of a new or increased expenditure of local  
17                   funds within the meaning of Amendment 621 of the Constitution  
18                   of Alabama of 1901, now appearing as Section 111.05 of the  
19                   Official Recompilation of the Constitution of Alabama of 1901,  
20                   as amended.

21                   BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22                   Section 1. (a) A person commits the crime of  
23                   unlawful possession with intent to distribute a controlled  
24                   substance if, except as otherwise authorized by law, he or she  
25                   possesses with intent to sell, furnish, give away, deliver, or  
26                   distribute a controlled substance enumerated in Schedules I  
27                   through V.

1 (b) Unlawful possession with intent to distribute  
2 controlled substances is a Class B felony.

3 (c) With regard to the following controlled  
4 substances, possession of the following quantities shall be  
5 prima facie evidence of a person's intent to sell, furnish,  
6 give away, deliver, or distribute the controlled substance:

7 (1) More than five grams, but less than 28 grams, of  
8 cocaine or of any mixture containing cocaine.

9 (2) More than one gram, but less than four grams of  
10 any morphine, opium, or any salt, isomer, or salt of an isomer  
11 thereof, including heroin.

12 (3) More than five grams, but less than 28 grams, of  
13 3,4-methylenedioxy amphetamine, or of any mixture containing  
14 3,4-methylenedioxy amphetamine.

15 (4) More than five grams, but less than 28 grams, of  
16 5-methoxy-3, 4-methylenedioxy amphetamine, or of any mixture  
17 containing 5-methoxy-3, 4-methylenedioxy amphetamine.

18 (5) More than five grams, but less than 28 grams, of  
19 amphetamine or any mixture containing amphetamine, its salt,  
20 optical isomer, or salt of its optical isomer thereof.

21 (6) More than five grams, but less than 28 grams, of  
22 methamphetamine or any mixture containing methamphetamine, its  
23 salts, optical isomers, or salt of its optical isomers  
24 thereof.

25 Section 2. Although this bill would have as its  
26 purpose or effect the requirement of a new or increased  
27 expenditure of local funds, the bill is excluded from further

1 requirements and application under Amendment 621, now  
2 appearing as Section 111.05 of the Official Recompilation of  
3 the Constitution of Alabama of 1901, as amended, because the  
4 bill defines a new crime or amends the definition of an  
5 existing crime.

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