

1 SB51  
2 179001-1  
3 By Senator Brewbaker  
4 RFD: Judiciary  
5 First Read: 09-JAN-18  
6 PFD: 01/05/2018

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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.