SB160

204274-1

By Senator Singleton

RFD: Judiciary

First Read: 01-FEB-22
SYNOPSIS: Under existing law, a person commits the crime of unlawful possession of marijuana in the first degree if he or she possesses marijuana for other than personal use or possesses marijuana for personal use only after having been previously convicted of unlawful possession in the second degree or unlawful possession of marijuana for his or her personal use only. Existing law also provides that the crime of unlawful possession of marijuana in the first degree is a Class C felony.

This bill would amend the crime of unlawful possession of marijuana in the first degree to provide that a person commits the crime if he or she possesses two or more ounces of marijuana and would prescribe new criminal penalties based on the number of prior violations.

Under existing law, a person commits the crime of unlawful possession of marijuana in the second degree if he or she possesses marijuana for personal use only. Existing law also provides that
the crime of unlawful possession of marijuana in the second degree is a Class A misdemeanor.

This bill would amend the crime of unlawful possession of marijuana in the second degree to provide that a person commits the crime if he or she possesses less than two ounces of marijuana and would change the criminal penalty to a fine only.

This bill would also provide that a person who is charged with, found not guilty of, or convicted of unlawful possession of marijuana in the first or second degree may have that charge, finding, or conviction expunged if he or she has not been convicted of a felony, misdemeanor, or violation, excluding minor traffic violations, within the last five years.

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

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

A BILL

TO BE ENTITLED

AN ACT

Relating to crimes and offenses; to amend Sections 13A-12-213 and 13A-12-214, Code of Alabama 1975, to provide further for the crimes of unlawful possession of marijuana in the first and second degrees; to revise the criminal penalties; to provide for expungement of a charge, finding, or conviction, under certain conditions; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:
Section 1. Sections 13A-12-213 and 13A-12-214, Code of Alabama 1975, are amended to read as follows:

"§13A-12-213.

"(a) A person commits the crime of unlawful possession of marihuana marijuana in the first degree if, except as otherwise authorized, he or she possesses two or more ounces of marijuana.

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

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

"(b) Unlawful possession of marihuana marijuana in the first degree pursuant to subdivision (1) of subsection (a) is punishable as follows:

"(1) Upon a first conviction of this section within the preceding five years, the person is guilty of a Class C misdemeanor, punishable only by a fine not to exceed two hundred fifty dollars ($250).

"(2) Upon a second conviction of this section within the preceding five years, the person is guilty of a Class C misdemeanor, punishable only by a fine not to exceed five hundred dollars ($500).

"(3) Upon a third or subsequent conviction of this section within the preceding five years, the person is guilty
of a Class E D felony, punishable only by a fine not to exceed seven hundred fifty dollars ($750).

"(c) Unlawful possession of marihuana in the first degree pursuant to subdivision (2) of subsection (a) is a Class D felony. All fines and forfeitures collected upon conviction or upon forfeiture of bail of any person charged with a violation of this section shall be deposited into the State Treasury to the credit of the State General Fund.

"(d) Notwithstanding Chapter 27 of Title 15, a person who has been charged with, found not guilty of, or convicted of violating this section may file a petition in the criminal division of any circuit court to expunge records related to the charge, finding, or conviction when the person has not been convicted of any other felony, misdemeanor, or violation, excluding minor traffic violations, during the previous five years. Upon the granting of a petition, the court shall order the expungement of all records of the person as provided in Section 15-27-6.

"§13A-12-214.

"(a) A person commits the crime of unlawful possession of marihuana marijuana in the second degree if, except as otherwise authorized, he or she possesses less than two ounces of marijuana marihuana for his personal use only.

"(b) Unlawful possession of marihuana marijuana in the second degree is a Class A misdemeanor violation punishable only by a fine not to exceed two hundred fifty dollars ($250).
"(c) A violation of this section alone shall not be accompanied by a charge pursuant to Section 13A-12-260.

"(d) All fines and forfeitures collected upon conviction or upon forfeiture of bail of any person charged with a violation of this section shall be deposited into the State Treasury to the credit of the State General Fund.

"(e) Notwithstanding Chapter 27 of Title 15, a person who has been charged with, found not guilty of, or convicted of violating this section may file a petition in the criminal division of any circuit court to expunge records related to the charge, finding, or conviction when the person has not been convicted of any other felony, misdemeanor, or violation, excluding minor traffic violations, during the previous five years. Upon the granting of a petition, the court shall order the expungement of all records of the person as provided in Section 15-27-6."

Section 2. Although this bill would have as its purpose or effect the requirement of a new or increased expenditure of local funds, the bill is excluded from further requirements and application under Amendment 621, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, because the bill defines a new crime or amends the definition of an existing crime.

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