

**SB42 INTRODUCED**



1 SB42  
2 TY7M591-1  
3 By Senator Singleton  
4 RFD: Judiciary  
5 First Read: 06-Feb-24



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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.

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 one 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 one ounce of marijuana and would reduce the criminal penalty to a violation, punishable by a fine.



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

36           Section 111.05 of the Constitution of Alabama of  
37 2022, prohibits a general law whose purpose or effect  
38 would be to require a new or increased expenditure of  
39 local funds from becoming effective with regard to a  
40 local governmental entity without enactment by a 2/3  
41 vote unless: it comes within one of a number of  
42 specified exceptions; it is approved by the affected  
43 entity; or the Legislature appropriates funds, or  
44 provides a local source of revenue, to the entity for  
45 the purpose.

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

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A BILL

TO BE ENTITLED



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57 AN ACT

58  
59 Relating to crimes and offenses; to amend Sections  
60 13A-12-213 and 13A-12-214, Code of Alabama 1975, to provide  
61 further for the crimes of unlawful possession of marijuana in  
62 the first and second degrees; to revise the criminal  
63 penalties; to provide for expungement of a charge, finding, or  
64 conviction, under certain conditions; and in connection  
65 therewith would have as its purpose or effect the requirement  
66 of a new or increased expenditure of local funds within the  
67 meaning of Section 111.05 of the Constitution of Alabama of  
68 2022.

69 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

72 "§13A-12-213

73 (a) A person commits the crime of unlawful possession  
74 of ~~marihuana~~marijuana in the first degree if, except as  
75 otherwise authorized~~+~~, he or she possesses one or more ounces  
76 of marijuana.

77 ~~(1) He or she possesses marihuana for other than~~  
78 ~~personal use; or~~

79 ~~(2) He or she possesses marihuana for his or her~~  
80 ~~personal use only after having been previously convicted of~~  
81 ~~unlawful possession of marihuana in the second degree or~~  
82 ~~unlawful possession of marihuana for his or her personal use~~  
83 ~~only.~~

84 (b) Unlawful possession of ~~marihuana~~marijuana in the



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85 first degree ~~pursuant to subdivision (1) of subsection (a)~~ is  
86 punishable as follows:

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

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

95 (3) Upon a third or subsequent conviction of this  
96 section within the preceding five years, the person is guilty  
97 of a Class ~~C~~ felony, punishable only by a fine not to exceed  
98 seven hundred fifty dollars (\$750).

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

105 (d) Notwithstanding Chapter 27 of Title 15, a person  
106 who has been charged with, found not guilty of, or convicted  
107 of violating this section may file a petition in the criminal  
108 division of any circuit court to expunge records related to  
109 the charge, finding, or conviction when the person has not  
110 been convicted of any other felony, misdemeanor, or violation,  
111 excluding minor traffic violations, during the previous five  
112 years. Upon the granting of a petition, the court shall order



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113 the expungement of all records of the person as provided in  
114 Section 15-27-6."

115 "§13A-12-214

116 (a) A person commits the crime of unlawful possession  
117 of ~~marihuana~~marijuana in the second degree if, except as  
118 otherwise authorized, he or she possesses less than one ounce  
119 of marijuana~~marihuana for his personal use only.~~

120 (b) Unlawful possession of ~~marihuana~~marijuana in the  
121 second degree is a ~~Class A misdemeanor~~violation punishable  
122 only by a fine not to exceed two hundred dollars (\$200).

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

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

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

139 Section 2. Although this bill would have as its purpose  
140 or effect the requirement of a new or increased expenditure of



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141 local funds, the bill is excluded from further requirements  
142 and application under Section 111.05 of the Constitution of  
143 Alabama of 2022, because the bill defines a new crime or  
144 amends the definition of an existing crime.

145 Section 3. This act shall become effective on October  
146 1, 2024.