



## 2019 ASSEMBLY BILL 1004

March 13, 2020 - Introduced by Representatives SORTWELL, GOYKE, SHANKLAND, CONSIDINE, KOLSTE, SINICKI, CROWLEY, GRUSZYNSKI, BROSTOFF, SUBECK, ANDERSON, BOWEN and SPREITZER, cosponsored by Senators SMITH, L. TAYLOR and LARSON. Referred to Committee on Criminal Justice and Public Safety.

1     **AN ACT** *to renumber and amend* 961.41 (3g) (e); and *to amend* 59.54 (25) (a)  
2             (intro.) and 66.0107 (1) (bm) of the statutes; **relating to:** possession of not more  
3             than 10 grams of marijuana and providing a penalty.

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### *Analysis by the Legislative Reference Bureau*

Current law prohibits a person from possessing or attempting to possess marijuana. A person who violates the prohibition may be fined not more than \$1,000 or imprisoned for not more than six months, or both, for a first conviction and is guilty of a Class I felony for a repeat conviction. This bill reduces to a \$100 forfeiture the penalty for possessing or attempting to possess not more than 10 grams of marijuana and eliminates the counting of a conviction involving not more than 10 grams of marijuana when determining if a violation is a repeat conviction.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

4             **SECTION 1.** 59.54 (25) (a) (intro.) of the statutes is amended to read:  
5             59.54 (25) (a) (intro.) The board may enact and enforce an ordinance to prohibit  
6             the possession of marijuana, as defined in s. 961.01 (14), subject to the exceptions in

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1 s. 961.41 (3g) (intro.), and provide a forfeiture for a violation of the ordinance; except  
2 that if a complaint is issued regarding an allegation of possession of more than 25  
3 grams of marijuana, or possession of ~~any amount~~ more than 10 grams of marijuana  
4 following a conviction in this state for possession of more than 10 grams of  
5 marijuana, the subject of the complaint may not be prosecuted under this subsection  
6 for the same action that is the subject of the complaint unless all of the following  
7 occur:

8 **SECTION 2.** 66.0107 (1) (bm) of the statutes is amended to read:

9 66.0107 (1) (bm) Enact and enforce an ordinance to prohibit the possession of  
10 marijuana, as defined in s. 961.01 (14), subject to the exceptions in s. 961.41 (3g)  
11 (intro.), and provide a forfeiture for a violation of the ordinance; except that if a  
12 complaint is issued regarding an allegation of possession of more than 25 grams of  
13 marijuana, or possession of ~~any amount~~ more than 10 grams of marijuana following  
14 a conviction in this state for possession of more than 10 grams of marijuana, the  
15 subject of the complaint may not be prosecuted under this paragraph for the same  
16 action that is the subject of the complaint unless the charges are dismissed or the  
17 district attorney declines to prosecute the case.

18 **SECTION 3.** 961.41 (3g) (e) of the statutes is renumbered 961.41 (3g) (e) 1. and  
19 amended to read:

20 961.41 (3g) (e) 1. If a person possesses or attempts to possess not more than  
21 10 grams of tetrahydrocannabinols included under s. 961.14 (4) (t), or a controlled  
22 substance analog of tetrahydrocannabinols, the person may be subject to a forfeiture  
23 of not more than \$100.

24 2. If a person possesses or attempts to possess more than 10 grams of  
25 tetrahydrocannabinols included under s. 961.14 (4) (t), or a controlled substance

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1 analog of tetrahydrocannabinols, the person may be fined not more than \$1,000 or  
2 imprisoned for not more than 6 months or both upon a first conviction and is guilty  
3 of a Class I felony for a 2nd or subsequent offense conviction under this subdivision.  
4 For purposes of this paragraph, ~~an offense~~ subdivision, a conviction is considered a  
5 2nd or subsequent ~~offense~~ conviction if, prior to the offender's conviction of the  
6 offense, the offender has at any time been convicted of any felony or misdemeanor  
7 under this chapter or under any statute of the United States or of any state relating  
8 to controlled substances, controlled substance analogs, narcotic drugs, marijuana,  
9 or depressant, stimulant, or hallucinogenic drugs.

10 **SECTION 4. Initial applicability.**

11 (1) The treatment of s. 961.41 (3g) (e) first applies to violations committed on  
12 the effective date of this subsection, but no prior conviction under s. 961.41 (3g) (e)  
13 involving not more than 10 grams of tetrahydrocannabinols may be counted for the  
14 purposes of sentencing a person.

15 (END)