



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-3679/1
CMH:klm

2021 SENATE BILL 440

June 24, 2021 - Introduced by Senators STROEBEL, JACQUE and WANGGAARD, cosponsored by Representatives JAMES, ALLEN, BRANDTJEN, CALLAHAN, DITTRICH, GUNDRUM, HORLACHER, MAGNAFICI, RAMTHUN, WICHGERS and MURPHY. Referred to Committee on Judiciary and Public Safety.

1 **AN ACT to create** 961.41 (1) (gt), 961.41 (1m) (gt) and 961.41 (3g) (dt) of the
2 statutes; **relating to:** butane extraction of resin from marijuana plants and
3 providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits a person from manufacturing, distributing, or delivering, or possessing with intent to manufacture, distribute, or deliver, marijuana. The penalties for violating the prohibition range from a Class I felony to a Class E felony, depending on the amount of marijuana involved. Under this bill, the penalty increases to a Class E felony, regardless of the amount of marijuana involved, if the person uses butane extraction in the manufacturing of the marijuana or in separating the plant resin from a marijuana plant.

Current law also prohibits a person from possessing marijuana. The penalty for violating the prohibition is a Class A misdemeanor for a first offense and a Class I felony if the person has previously been convicted of a controlled substances crime. Under this bill, the penalty for such a repeat offense is greater if the marijuana the person possesses is resin that has been directly or indirectly separated from a marijuana plant by butane extraction. The penalties for possession of such resin vary based on the amount: three grams or less is a Class H felony; more than three grams but not more than 10 grams is a Class G felony; more than 10 grams but not more than 50 grams is a Class F felony; and more than 50 grams is a Class E felony.

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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.

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

1 **SECTION 1.** 961.41 (1) (gt) of the statutes is created to read:

2 961.41 (1) (gt) *Manufacturing by butane extraction.* If the person violates this
3 subsection by manufacturing marijuana, or by separating plant resin from a
4 marijuana plant, either directly or indirectly, by butane or other similar fuel
5 extraction, the person is guilty of a Class E felony.

6 **SECTION 2.** 961.41 (1m) (gt) of the statutes is created to read:

7 961.41 (1m) (gt) *Manufacturing by butane extraction.* If the person violates
8 this subsection by manufacturing marijuana, or by separating plant resin from a
9 marijuana plant, either directly or indirectly, by butane or other similar fuel
10 extraction, the person is guilty of a Class E felony.

11 **SECTION 3.** 961.41 (3g) (dt) of the statutes is created to read:

12 961.41 (3g) (dt) *Resin separated through butane extraction.* 1. If a person
13 possesses or attempts to possess plant resin that has been directly or indirectly
14 separated from a marijuana plant by butane or other similar fuel extraction, the
15 person may be fined not more than \$1,000 or imprisoned for not more than 6 months
16 or both upon a first conviction and is guilty of one of the following for a 2nd or
17 subsequent offense:

18 a. If the amount involved is 3 grams or less, a Class H felony.

19 b. If the amount involved is more than 3 grams but not more than 10 grams,
20 a Class G felony.

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1 c. If the amount involved is more than 10 grams but not more than 50 grams,
2 a Class F felony.

3 d. If the amount involved is more than 50 grams, a Class E felony.

4 2. For purposes of this paragraph, an offense is considered a 2nd or subsequent
5 offense if, prior to the offender's conviction of the offense, the offender has at any time
6 been convicted of any felony or misdemeanor under this chapter or under any statute
7 of the United States or of any state relating to controlled substances, controlled
8 substance analogs, narcotic drugs, marijuana, or depressant, stimulant, or
9 hallucinogenic drugs.

10 (END)