

2013 DRAFTING REQUEST

Bill

Received: 11/29/2012 Received By: chanaman
 Wanted: As time permits Same as LRB:
 For: Jeremy Thiesfeldt (608) 266-3156 By/Representing: Hariah
 May Contact: Drafter: chanaman
 Subject: Criminal Law - drugs Addl. Drafters:
 Extra Copies:

Submit via email: YES
 Requester's email: Rep.Thiesfeldt@legis.wi.gov
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Changing local marijuana possession laws

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	chanaman 11/29/2012	evinz 12/4/2012		_____			
/P1	chanaman 12/14/2012	evinz 12/14/2012	rschlue	_____	sbasford 12/4/2012		Local
/1				_____	lparisi 12/14/2012	lparisi 12/14/2012	Local

FE Sent For:

at
intro

<END>

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/?	chanaman 11/29/2012	evinz 12/4/2012		_____			
/P1			rschluet 12/4/2012	_____	sbasford 12/4/2012		Local

FE Sent For:

1 ew 12/14/12

<END>

[Handwritten signature]
12/14/12

Jacketed for Assembly

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/?	chanaman	1pl eev 12/4/12	1pl eev 12/4/12				

FE Sent For:

<END>



State of Wisconsin
2011-2012 LEGISLATURE

2013-2014



0657/P1

LRB-4323/P1

CMH:eev&kf:jf

Stgys

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

PWF

SAW
xref

regen cat

1 AN ACT *to amend* 59.54 (25), 59.54 (25g), 66.0107 (1) (bm) and 66.0107 (1) (bn)
2 of the statutes; **relating to:** local ordinances regarding possession of marijuana
3 or a synthetic cannabinoid.

Analysis by the Legislative Reference Bureau

or a county

Under current law, a county, city, village, or town (local governmental unit) may enact and enforce an ordinance prohibiting the possession of 25 grams or less of marijuana or the possession of a synthetic cannabinoid. A person who is charged with possession of more than 25 grams of marijuana or who is charged with possession of any amount of marijuana or a synthetic cannabinoid following a conviction for the possession of a controlled substance generally may not be prosecuted under the ordinance.

or a county

This bill allows a local governmental unit to enact and enforce an ordinance to prohibit the possession of any amount of marijuana and to prosecute a person for a second or subsequent offense of possessing marijuana or a synthetic cannabinoid. The local governmental unit, however, may enforce the prohibition against possessing marijuana in a case in which the person is alleged to possess more than 25 grams of marijuana or may prosecute a second or subsequent offense only if the state complaint against the person is dismissed or if the district attorney declines to prosecute the case.

INS A

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 59.54 (25) of the statutes is amended to read:

2 59.54 (25) POSSESSION OF MARIJUANA. The board may enact and enforce an
3 ordinance to prohibit the possession of ~~25 grams or less of~~ marijuana, as defined in
4 s. 961.01 (14), subject to the exceptions in s. 961.41 (3g) (intro.), and provide a
5 forfeiture for a violation of the ordinance; except that ~~any person who is charged with~~
6 if a complaint is issued regarding an allegation of possession of more than 25 grams
7 of marijuana, or who is charged with possession of any amount of marijuana
8 following a conviction in this state for possession of marijuana, in this state shall not
9 the subject of the complaint may not be prosecuted under this subsection for the same
10 action that is the subject of the complaint unless the charges are dismissed or the
11 district attorney declines to prosecute the case. Any ordinance enacted under this
12 subsection applies in every municipality within the county.

13 **SECTION 2.** 59.54 (25g) of the statutes, as created by 2011 Wisconsin Act 31, is
14 amended to read:

15 59.54 (25g) POSSESSION OF A SYNTHETIC CANNABINOID. The board may enact and
16 enforce an ordinance to prohibit the possession of any controlled substance specified
17 in s. 961.14 (4) (tb) to (ty), and provide a forfeiture for a violation of the ordinance,
18 except that ~~any person who is charged with~~ if a complaint is issued regarding an
19 allegation of possession of a controlled substance specified in s. 961.14 (4) (tb) to (ty)
20 following a conviction in this state for possession of a controlled substance in this
21 state shall not, the subject of the complaint may not be prosecuted under this

1 subsection for the same action that is the subject of the complaint unless the charges
2 are dismissed or the district attorney declines to prosecute the case. Any ordinance
3 enacted under this subsection applies in every municipality within the county.

4 SECTION 3. ^x 66.0107 (1) (bm) of the statutes is amended to read:

5 66.0107 (1) (bm) Enact and enforce an ordinance to prohibit the possession of
6 ~~25 grams or less of~~ marijuana, as defined in s. 961.01 (14), subject to the exceptions
7 in s. 961.41 (3g) (intro.), and provide a forfeiture for a violation of the ordinance;
8 except that ~~any person who is charged with~~ if a complaint is issued regarding an
9 allegation of possession of more than 25 grams of marijuana, or ~~who is charged with~~
10 possession of any amount of marijuana following a conviction in this state for
11 possession of marijuana, ~~in this state shall not~~ the subject of the complaint may not
12 be prosecuted under this paragraph for the same action that is the subject of the
13 complaint unless the charges are dismissed or the district attorney declines to
14 prosecute the case.

15 SECTION 4. ^x 66.0107 (1) (bn) of the statutes, ~~as created by 2011 Wisconsin Act~~

16 ~~31~~ is amended to read:

17 66.0107 (1) (bn) Enact and enforce an ordinance to prohibit the possession of
18 a controlled substance specified in s. 961.14 (4) (tb) to (ty) and provide a forfeiture
19 for a violation of the ordinance, except that ~~any person who is charged with~~ if a
20 complaint is issued regarding an allegation of possession of a controlled substance
21 specified in s. 961.14 (4) (tb) to (ty) following a conviction in this state for possession
22 of a controlled substance ~~in this state shall not~~, the subject of the complaint may not
23 be prosecuted under this paragraph for the same action that is the subject of the

INS
3-4

SECTION 4

1 complaint unless the charges are dismissed or the district attorney declines to
2 prosecute the case.

3 (END)

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-06577?ins
CMH:.....

1 Insert A (no paragraph)

In turn, a county may enforce the prohibition against possessing marijuana in a case in which the person is alleged to possess more than 25 grams of marijuana or may prosecute a second or subsequent offense only if, after the state dismisses the complaint or declines to prosecute the case, the local governmental unit with jurisdiction also dismisses the complaint, declines to prosecute the case, or lacks an ordinance under which the complaint could be prosecuted.✓

2

3 Insert 3-4

4 **SECTION 1.** 59.54 (25) of the statutes is renumbered 59.54 (25) (a) (intro.) and
5 amended to read:

6 59.54 (25) (a) POSSESSION OF MARIJUANA. (intro.) The board may enact and
7 enforce an ordinance to prohibit the possession of ~~25 grams or less of~~ marijuana, as
8 defined in s. 961.01 (14), subject to the exceptions in s. 961.41 (3g) (intro.), and
9 provide a forfeiture for a violation of the ordinance; except that ~~any person who is~~
10 ~~charged with~~ if a complaint is issued regarding an allegation of possession of more
11 than 25 grams of marijuana, or ~~who is charged with~~ possession of any amount of
12 marijuana following a conviction in this state for possession of marijuana, ~~in this~~
13 ~~state shall not the subject of the complaint may not~~ be prosecuted under this
14 subsection. for the same action that is the subject of the complaint unless all of the
15 following occur:

16 (b) Any ordinance enacted under ~~this subsection~~ par. (a) applies in every
17 municipality within the county.

History: 1995 a. 201 ss. 146 to 149, 154 to 156, 159, 160, 162, 175 to 177, 179, 180, 183, 191, 193, 210 to 213, 222, 226 to 228, 274, 283, 366, 403, 404; 1995 a. 448 s. 59; 1997 a. 27, 35; 2001 a. 16; 2003 a. 193; 2005 a. 90; 2009 a. 42; 2011 a. 31, 35.

18 **SECTION 2.** 59.54 (25) (a) 1. and 2. of the statutes are created to read:

1 59.54 (25) (a) 1. The charges for violating the state statute are dismissed or the
2 district attorney declines to prosecute the case.

3 2. Either the city, village, or town with jurisdiction over the action has no
4 ordinance enacted under s. 66.0107 (1) (bm) in effect or the city, village, or town with
5 jurisdiction over the action has declined to prosecute or has dismissed the charges
6 for the violation of the ordinance enacted under s. 66.0107 (1) (bm).

7 **SECTION 3.** 59.54 (25g) of the statutes is renumbered 59.54 (25g) (a) (intro.) and
8 amended to read:

9 59.54 (25g) (a) POSSESSION OF A SYNTHETIC CANNABINOID. (intro.) The board may
10 enact and enforce an ordinance to prohibit the possession of any controlled substance
11 specified in s. 961.14 (4) (tb) to (ty), and provide a forfeiture for a violation of the
12 ordinance, except that ~~any person who is charged with~~ if a complaint is issued
13 regarding an allegation of possession of a controlled substance specified in s. 961.14
14 (4) (tb) to (ty) following a conviction in this state for possession of a controlled
15 substance ~~in this state shall not, the subject of the complaint may not~~ be prosecuted
16 under this subsection: for the same action that is the subject of the complaint unless
17 all of the following occur:

18 (b) Any ordinance enacted under ~~this subsection~~ par. (a) applies in every
19 municipality within the county.

History: 1995 a. 201 ss. 146 to 149, 154 to 156, 159, 160, 162, 175 to 177, 179, 180, 183, 191, 193, 210 to 213, 222, 226 to 228, 274, 283, 366, 403, 404; 1995 a. 448 s. 59; 1997 a. 27, 35; 2001 a. 16; 2003 a. 193; 2005 a. 90; 2009 a. 42; 2011 a. 31, 35.

20 **SECTION 4.** 59.54 (25g) (a) 1. and 2. of the statutes are created to read:

21 59.54 (25g) (a) 1. The charges for violating the state statute are dismissed or
22 the district attorney declines to prosecute the case.

23 2. Either the city, village, or town with jurisdiction over the action has no
24 ordinance enacted under s. 66.0107 (1) (bn) in effect or the city, village, or town with

1 jurisdiction over the action has declined to prosecute or has dismissed the charges
2 for the violation of the ordinance enacted under s. 66.0107 (1) (bn).



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0657/PA
CMH:eev:rs

Today please no changes

Stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

My cat

1 **AN ACT** *to renumber and amend* 59.54 (25) and 59.54 (25g); *to amend* 66.0107
2 (1) (bm) and 66.0107 (1) (bn); and *to create* 59.54 (25) (a) 1. and 2. and 59.54
3 (25g) (a) 1. and 2. of the statutes; **relating to:** local ordinances regarding
4 possession of marijuana or a synthetic cannabinoid.

Analysis by the Legislative Reference Bureau

Under current law, a city, village, or town (local governmental unit) or a county may enact and enforce an ordinance prohibiting the possession of 25 grams or less of marijuana or the possession of a synthetic cannabinoid. A person who is charged with possession of more than 25 grams of marijuana or who is charged with possession of any amount of marijuana or a synthetic cannabinoid following a conviction for the possession of a controlled substance generally may not be prosecuted under the ordinance.

This bill allows a local governmental unit or a county to enact and enforce an ordinance to prohibit the possession of any amount of marijuana and to prosecute a person for a second or subsequent offense of possessing marijuana or a synthetic cannabinoid. The local governmental unit, however, may enforce the prohibition against possessing marijuana in a case in which the person is alleged to possess more than 25 grams of marijuana or may prosecute a second or subsequent offense only if the state complaint against the person is dismissed or if the district attorney declines to prosecute the case. In turn, a county may enforce the prohibition against possessing marijuana in a case in which the person is alleged to possess more than 25 grams of marijuana or may prosecute a second or subsequent offense only if, after

the state dismisses the complaint or declines to prosecute the case, the local governmental unit with jurisdiction also dismisses the complaint, declines to prosecute the case, or lacks an ordinance under which the complaint could be prosecuted.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 59.54 (25) of the statutes is renumbered 59.54 (25) (a) (intro.) and
2 amended to read:

3 59.54 (25) (a) POSSESSION OF MARIJUANA. (intro.) The board may enact and
4 enforce an ordinance to prohibit the possession of ~~25 grams or less of~~ marijuana, as
5 defined in s. 961.01 (14), subject to the exceptions in s. 961.41 (3g) (intro.), and
6 provide a forfeiture for a violation of the ordinance; except that ~~any person who is~~
7 ~~charged with~~ if a complaint is issued regarding an allegation of possession of more
8 than 25 grams of marijuana, or who is charged with possession of any amount of
9 marijuana following a conviction in this state for possession of marijuana, in this
10 state shall not the subject of the complaint may not be prosecuted under this
11 subsection- for the same action that is the subject of the complaint unless all of the
12 following occur:

13 (b) Any ordinance enacted under ~~this subsection~~ par. (a) applies in every
14 municipality within the county.

15 **SECTION 2.** 59.54 (25) (a) 1. and 2. of the statutes are created to read:

16 59.54 (25) (a) 1. The charges for violating the state statute are dismissed or the
17 district attorney declines to prosecute the case.

18 2. Either the city, village, or town with jurisdiction over the action has no
19 ordinance enacted under s. 66.0107 (1) (bm) in effect or the city, village, or town with

1 jurisdiction over the action has declined to prosecute or has dismissed the charges
2 for the violation of the ordinance enacted under s. 66.0107 (1) (bm).

3 **SECTION 3.** 59.54 (25g) of the statutes is renumbered 59.54 (25g) (a) (intro.) and
4 amended to read:

5 59.54 (25g) (a) POSSESSION OF A SYNTHETIC CANNABINOID. (intro.) The board may
6 enact and enforce an ordinance to prohibit the possession of any controlled substance
7 specified in s. 961.14 (4) (tb) to (ty), and provide a forfeiture for a violation of the
8 ordinance, except that ~~any person who is charged with~~ if a complaint is issued
9 regarding an allegation of possession of a controlled substance specified in s. 961.14
10 (4) (tb) to (ty) following a conviction in this state for possession of a controlled
11 substance ~~in this state shall not, the subject of the complaint may not be prosecuted~~
12 under this subsection- for the same action that is the subject of the complaint unless
13 all of the following occur:

14 (b) Any ordinance enacted under ~~this subsection~~ par. (a) applies in every
15 municipality within the county.

16 **SECTION 4.** 59.54 (25g) (a) 1. and 2. of the statutes are created to read:

17 59.54 (25g) (a) 1. The charges for violating the state statute are dismissed or
18 the district attorney declines to prosecute the case.

19 2. Either the city, village, or town with jurisdiction over the action has no
20 ordinance enacted under s. 66.0107 (1) (bn) in effect or the city, village, or town with
21 jurisdiction over the action has declined to prosecute or has dismissed the charges
22 for the violation of the ordinance enacted under s. 66.0107 (1) (bn).

23 **SECTION 5.** 66.0107 (1) (bm) of the statutes is amended to read:

24 66.0107 (1) (bm) Enact and enforce an ordinance to prohibit the possession of
25 ~~25 grams or less~~ of marijuana, as defined in s. 961.01 (14), subject to the exceptions

1 in s. 961.41 (3g) (intro.), and provide a forfeiture for a violation of the ordinance;
2 except that ~~any person who is charged with~~ if a complaint is issued regarding an
3 allegation of possession of more than 25 grams of marijuana, or who is charged with
4 possession of any amount of marijuana following a conviction in this state for
5 possession of marijuana, in this state shall not the subject of the complaint may not
6 be prosecuted under this paragraph for the same action that is the subject of the
7 complaint unless the charges are dismissed or the district attorney declines to
8 prosecute the case.

9 SECTION 6. 66.0107 (1) (bn) of the statutes is amended to read:

10 66.0107 (1) (bn) Enact and enforce an ordinance to prohibit the possession of
11 a controlled substance specified in s. 961.14 (4) (tb) to (ty) and provide a forfeiture
12 for a violation of the ordinance, except that ~~any person who is charged with~~ if a
13 complaint is issued regarding an allegation of possession of a controlled substance
14 specified in s. 961.14 (4) (tb) to (ty) following a conviction in this state for possession
15 of a controlled substance in this state shall not, the subject of the complaint may not
16 be prosecuted under this paragraph for the same action that is the subject of the
17 complaint unless the charges are dismissed or the district attorney declines to
18 prosecute the case.

19 (END)