2019 ASSEMBLY BILL 1004


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

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.

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

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

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

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

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

2. If a person possesses or attempts to possess more than 10 grams of tetrahydrocannabinols included under s. 961.14 (4) (t), or a controlled substance
analog of tetrahydrocannabinols, the person may be fined not more than $1,000 or
imprisoned for not more than 6 months or both upon a first conviction and is guilty
of a Class I felony for a 2nd or subsequent offense conviction under this subdivision.
For purposes of this paragraph, an offense subdivision, a conviction is considered a
2nd or subsequent offense conviction if, prior to the offender’s conviction of the
crime, the offender has at any time been convicted of any felony or misdemeanor
under this chapter or under any statute of the United States or of any state relating
to controlled substances, controlled substance analogs, narcotic drugs, marijuana,
or depressant, stimulant, or hallucinogenic drugs.

SECTION 4. Initial applicability.

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