



## 2015 ASSEMBLY BILL 997

March 15, 2016 – Introduced by Representatives GOYKE, BOWEN, BARNES, BROSTOFF, ZAMARRIPA, ZEPNICK, SPREITZER and CONSIDINE. Referred to Committee on Criminal Justice and Public Safety.

1     **AN ACT** *to renumber and amend* 961.48 (1); *to amend* 961.41 (3g) (e), 961.48  
2           (2m) (a), 961.48 (2m) (b) 1. and 2., 961.48 (3) and 961.48 (5); and *to create*  
3           961.48 (1g) of the statutes; **relating to:** penalties for the possession of  
4           marijuana.

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### *Analysis by the Legislative Reference Bureau*

Under current law, a person who possesses or attempts to possess tetrahydrocannabinols (THC) is guilty of a misdemeanor and may be imprisoned for not more than six months or fined not more than \$1,000, or both, for a first offense and is guilty of a felony and may be imprisoned for no more than three years and six month or fined not more than \$10,000, or both, for a second or subsequent offense. Under this bill, a first offense would be a misdemeanor for which the person could be imprisoned not more than 90 days or fined not more than \$1,000, or both. A second offense would subject the person to the penalty for a first offense under current law, and a third or subsequent offense would subject the person to the penalty for a second offense under current law.

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

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

**ASSEMBLY BILL 997****SECTION 1**

1           961.41 (3g) (e) *Tetrahydrocannabinols*. If a person possesses or attempts to  
2 possess tetrahydrocannabinols included under s. 961.14 (4) (t), or a controlled  
3 substance analog of tetrahydrocannabinols, the person may be fined not more than  
4 \$1,000 or imprisoned for not more than ~~6 months~~ 90 days or both upon a first  
5 conviction, ~~may be fined not more than \$1,000 or imprisoned for not more than 6~~  
6 ~~months or both upon a 2nd conviction~~, and is guilty of a Class I felony for a ~~2nd~~ 3rd  
7 or subsequent offense conviction. For purposes of this paragraph, ~~an offense is~~  
8 ~~considered a 2nd or subsequent offense if, prior to the offender's a conviction of the~~  
9 ~~offense, the offender has at any time been convicted~~ means a conviction of any felony  
10 or misdemeanor under this chapter or under any statute of the United States or of  
11 any state relating to controlled substances, controlled substance analogs, narcotic  
12 drugs, marijuana, or depressant, stimulant, or hallucinogenic drugs.

13           **SECTION 2.** 961.48 (1) of the statutes is renumbered 961.48 (1m) and amended  
14 to read:

15           961.48 (1m) If a person is charged under sub. (2m) with a felony offense under  
16 ~~this chapter~~ that is a 2nd or subsequent offense as provided under sub. (3) and the  
17 person is convicted of that 2nd or subsequent offense, the maximum term of  
18 imprisonment for the offense may be increased as follows:

19           (a) By not more than 6 years, if the felony offense is a Class C or D felony.

20           (b) By not more than 4 years, if the felony offense is a Class E, F, G, H, or I felony.

21           **SECTION 3.** 961.48 (1g) of the statutes is created to read:

22           961.48 (1g) In this section, "felony offense" means a felony under this chapter  
23 except for a felony under s. 961.41 (3g) (e).

24           **SECTION 4.** 961.48 (2m) (a) of the statutes is amended to read:

**ASSEMBLY BILL 997****SECTION 4**

1           961.48 **(2m)** (a) Whenever a person charged with a felony offense ~~under this~~  
2 ~~chapter~~ may be subject to a conviction for a 2nd or subsequent offense, he or she is  
3 not subject to an enhanced penalty under sub. ~~(1)~~ (1m) unless any applicable prior  
4 convictions are alleged in the complaint, indictment or information or in an amended  
5 complaint, indictment or information that is filed under par. (b) 1. A person is not  
6 subject to an enhanced penalty under sub. ~~(1)~~ (1m) for an offense if an allegation of  
7 applicable prior convictions is withdrawn by an amended complaint filed under par.  
8 (b) 2.

9           **SECTION 5.** 961.48 (2m) (b) 1. and 2. of the statutes are amended to read:

10           961.48 **(2m)** (b) 1. Charges ~~an a felony~~ offense as a 2nd or subsequent offense  
11 under this chapter by alleging any applicable prior convictions.

12           2. Withdraws the charging of ~~an a felony~~ offense as a 2nd or subsequent offense  
13 under this chapter by withdrawing an allegation of applicable prior convictions.

14           **SECTION 6.** 961.48 (3) of the statutes is amended to read:

15           961.48 **(3)** For purposes of this section, a felony offense ~~under this chapter~~ is  
16 considered a 2nd or subsequent offense if, prior to the offender's conviction of the  
17 offense, the offender has at any time been convicted of any felony offense or  
18 misdemeanor offense under this chapter excluding a misdemeanor under s. 961.41  
19 (3g) (e) or under any statute of the United States or of any state relating to controlled  
20 substances or controlled substance analogs, narcotic drugs, ~~marijuana~~ or  
21 depressant, stimulant or hallucinogenic drugs.

22           **SECTION 7.** 961.48 (5) of the statutes is amended to read:

23           961.48 **(5)** This section does not apply if the person is presently charged with  
24 a felony offense under s. 961.41 (3g) (c), (d), ~~(e)~~, or (g).

25   **(END)**