

**2015 DRAFTING REQUEST**

**Bill**

Received: 1/20/2015 Received By: chanaman  
Wanted: As time permits Same as LRB: -2298  
For: Mandela Barnes (608) 266-3756 By/Representing: Frederic  
May Contact: Drafter: chanaman  
Subject: Criminal Law - drugs Addl. Drafters:  
Extra Copies:

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

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Eliminate criminal penalty for possessing less than 25 grams of marijuana

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**Instructions:**

See attached

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**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 1/20/2015	wjackson 1/21/2015		_____			
/1	chanaman 3/27/2015	wjackson 3/27/2015	rschluet 1/22/2015	_____	sbasford 1/22/2015		State S&L
/2	chanaman 4/8/2015	wjackson 4/9/2015	wjackson 3/27/2015	_____	srose 3/27/2015		State S&L
/3				_____	srose	lparisi	State

Vers. Drafted

Reviewed

Typed

Proofed

Submitted  
4/9/2015

Jacketed  
5/11/2015

Required  
S&L

FE Sent For:

*at intro  
5/27/15*

<END>



State of Wisconsin  
2015 - 2016 LEGISLATURE



LRB-091971  
CMH:wlj:jm

Thurs  
1/22

stays

- 1353/1

2015 BILL

Regen

1 AN ACT *to amend* 59.54 (25) (a) (intro.), 66.0107 (1) (bm), 961.41 (1) (h) 1., 961.41  
2 (1m) (h) 1., 961.41 (1r) and 961.41 (3g) (e) of the statutes; **relating to:**  
3 possession of ~~28~~ grams of marijuana.

***Analysis by the Legislative Reference Bureau***

Current law prohibits a person from possessing or attempting to possess; possessing with the intent to manufacture, distribute, or deliver; and manufacturing, distributing, or delivering marijuana (violations related to marijuana). The penalties vary based on the amount of marijuana or plants involved or the number of previous controlled-substance convictions the person has. This bill eliminates the penalty for violations related to marijuana if the amount of marijuana involved is no more than ~~28~~ grams (approximately one ounce) or, with respect to possessing with the intent to manufacture, distribute, or deliver or to manufacturing, distributing, or delivering, the number of plants involved is no more than two. This bill also allows local governments to enact ordinances prohibiting the possession of more than ~~28~~ grams of marijuana.

For further information see the ***state and 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:***

## BILL

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

2 59.54 (25) (a) (intro.) The board may enact and enforce an ordinance to prohibit  
3 the possession of more than 28 grams of marijuana, as defined in s. 961.01 (14),  
4 subject to the exceptions in s. 961.41 (3g) (intro.), and provide a forfeiture for a  
5 violation of the ordinance; except that if a complaint is issued regarding an allegation  
6 of possession of more than 25 grams of marijuana, <sup>plant</sup> or possession of any amount 28  
7 grams of marijuana following a conviction in this state for possession of more than  
8 28 grams of marijuana, the subject of the complaint may not be prosecuted under this  
9 subsection for the same action that is the subject of the complaint unless all of the  
10 following occur:

25  
11 SECTION 2. 66.0107 (1) (bm) of the statutes is amended to read:

12 66.0107 (1) (bm) Enact and enforce an ordinance to prohibit the possession of  
13 more than 28 grams of marijuana, as defined in s. 961.01 (14), subject to the  
14 exceptions in s. 961.41 (3g) (intro.), and provide a forfeiture for a violation of the  
15 ordinance; except that if a complaint is issued regarding an allegation of possession  
16 of more than 25 grams of marijuana, <sup>plant</sup> or possession of any amount 28 grams of  
17 marijuana following a conviction in this state for possession of more than 28 grams  
18 of marijuana, the subject of the complaint may not be prosecuted under this 25  
19 paragraph for the same action that is the subject of the complaint unless the charges  
20 are dismissed or the district attorney declines to prosecute the case.

21 SECTION 3. 961.41 (1) (h) 1. of the statutes is amended to read:

22 961.41 (1) (h) 1. Two hundred More than 28 grams but not more than 200 grams  
23 or less, or more than 2 but fewer than 4 or fewer plants containing  
24 tetrahydrocannabinols, the person is guilty of a Class I felony.

25 SECTION 4. 961.41 (1m) (h) 1. of the statutes is amended to read:

**BILL**

1           961.41 (1m) (h) 1. ~~Two hundred~~ <sup>25</sup> More than 28 grams but not more than 200  
2           grams ~~or less~~, or more than 2 but fewer than 4 or fewer plants containing  
3           tetrahydrocannabinols, the person is guilty of a Class I felony.

4           **SECTION 5.** 961.41 (1r) of the statutes is amended to read:

5           961.41 (1r) DETERMINING WEIGHT OF SUBSTANCE. In determining amounts under  
6           s. 961.49 (2) (b), 1999 stats., and subs. (1) and (1m), an amount includes the weight  
7           of cocaine, cocaine base, heroin, phencyclidine, lysergic acid diethylamide, psilocin,  
8           psilocybin, amphetamine, methamphetamine, tetrahydrocannabinols, synthetic  
9           cannabinoids, or substituted cathinones, or any controlled substance analog of any  
10          of these substances together with any compound, mixture, diluent, plant material  
11          or other substance mixed or combined with the controlled substance or controlled  
12          substance analog. In addition, in determining amounts under subs. (1) (h) and (1m)  
13          (h), the amount of tetrahydrocannabinols ~~means anything included under s. 961.14~~  
14          (4) (t) ~~and~~ includes the weight of any marijuana.

15          **SECTION 6.** 961.41 (3g) (e) of the statutes is amended to read:

16          961.41 (3g) (e) *Tetrahydrocannabinols*. If a person possesses or attempts to  
17          possess more than 28 grams of tetrahydrocannabinols included under s. 961.14 (4)  
18          (t), or of a controlled substance analog of tetrahydrocannabinols, the person may be  
19          fined not more than \$1,000 or imprisoned for not more than 6 months or both upon  
20          a first conviction and is guilty of a Class I felony for a 2nd or subsequent offense. For  
21          purposes of this paragraph, an offense is considered a 2nd or subsequent offense if,  
22          prior to the offender's conviction of the offense, the offender has at any time been  
23          convicted of any felony or misdemeanor under this chapter or under any statute of  
24          the United States or of any state relating to controlled substances, controlled

**BILL**

1 substance analogs, narcotic drugs, marijuana, or depressant, stimulant, or  
2 hallucinogenic drugs.

3 (END)



State of Wisconsin  
2015 - 2016 LEGISLATURE



LRB-1353/1  
CMH:wj:rs

today if possible

Stays

2015 BILL

Regan

1 AN ACT to amend 59.54 (25) (a) (intro.), 66.0107 (1) (bm), 961.41 (1) (h) 1., 961.41  
2 (1m) (h) 1., 961.41 (1r) and 961.41 (3g) (e) of the statutes; relating to:  
3 possession of 25 grams <sup>or less</sup> of marijuana. and distribution and delivery of marijuana

Analysis by the Legislative Reference Bureau

Current law prohibits a person from possessing or attempting to possess; possessing with the intent to manufacture, distribute, or deliver; and manufacturing, distributing, or delivering marijuana (violations related to marijuana). The penalties vary based on the amount of marijuana or plants involved or the number of previous controlled-substance convictions the person has. This bill eliminates the penalty for violations related to marijuana if the amount of marijuana involved is no more than 25 grams or, with respect to possessing with the intent to manufacture, distribute, or deliver or to manufacturing, distributing, or delivering, the number of plants involved is no more than two. This bill also allows local governments to enact ordinances prohibiting the possession of more than 25 grams of marijuana.

For further information see the *state and 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:

**BILL**

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

2           59.54 (25) (a) (intro.) The board may enact and enforce an ordinance to prohibit  
3 the possession of more than 25 grams of marijuana, as defined in s. 961.01 (14),  
4 subject to the exceptions in s. 961.41 (3g) (intro.), and provide a forfeiture for a  
5 violation of the ordinance; except that if a complaint is issued regarding an allegation  
6 of possession of more than 25 grams of marijuana, ~~or possession of any amount of~~  
7 marijuana following a conviction in this state for possession of more than 25 grams  
8 of marijuana, the subject of the complaint may not be prosecuted under this  
9 subsection for the same action that is the subject of the complaint unless all of the  
10 following occur:

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

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

21           **SECTION 3.** 961.41 (1) (h) 1. of the statutes is amended to read:

22           961.41 (1) (h) 1. ~~Two hundred~~ More than 25 grams but not more than 200 grams  
23 ~~or less,~~ or more than 2 but fewer than 4 ~~or fewer~~ plants containing  
24 tetrahydrocannabinols, the person is guilty of a Class I felony.

25           **SECTION 4.** 961.41 (1m) (h) 1. of the statutes is amended to read:

INC 2-25



**BILL**

1           961.41 (1m) (h) 1. ~~Two hundred~~ More than 25 grams but not more than 200  
2 grams ~~or less, or more than 2 but fewer than 4 or fewer~~ <sup>not more</sup> plants containing  
3 tetrahydrocannabinols, the person is guilty of a Class I felony.

4           **SECTION 5.** 961.41 (1r) of the statutes is amended to read:

5           961.41 (1r) DETERMINING WEIGHT OF SUBSTANCE. In determining amounts under  
6 s. 961.49 (2) (b), 1999 stats., and subs. (1) and (1m), an amount includes the weight  
7 of cocaine, cocaine base, heroin, phencyclidine, lysergic acid diethylamide, psilocin,  
8 psilocybin, amphetamine, methamphetamine, tetrahydrocannabinols, synthetic  
9 cannabinoids, or substituted cathinones, or any controlled substance analog of any  
10 of these substances together with any compound, mixture, diluent, plant material  
11 or other substance mixed or combined with the controlled substance or controlled  
12 substance analog. In addition, in determining amounts under subs. (1) (h) and (1m)  
13 (h), the amount of tetrahydrocannabinols ~~means anything included under s. 961.14~~  
14 ~~(4) (t) and~~ includes the weight of any marijuana.

15           **SECTION 6.** 961.41 (3g) (e) of the statutes is amended to read:

16           961.41 (3g) (e) *Tetrahydrocannabinols*. If a person possesses or attempts to  
17 possess more than 25 grams of tetrahydrocannabinols included under s. 961.14 (4)  
18 (t), or of a controlled substance analog of tetrahydrocannabinols, the person may be  
19 fined not more than \$1,000 or imprisoned for not more than 6 months or both upon  
20 a first conviction and is guilty of a Class I felony for a 2nd or subsequent offense. For  
21 purposes of this paragraph, an offense is considered a 2nd or subsequent offense if,  
22 prior to the offender's conviction of the offense, the offender has at any time been  
23 convicted of any felony or misdemeanor under this chapter or under any statute of  
24 the United States or of any state relating to controlled substances, controlled

**BILL**

1 substance analogs, narcotic drugs, marijuana, or depressant, stimulant, or  
2 hallucinogenic drugs.

3

(END)

INS

4-3

2015-2016 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1353/2ins  
CMH:.....

1 Insert A (no paragraph)

*Not* This bill eliminates the penalty for manufacturing or for possessing with the intent to manufacture, distribute, or deliver if the amount of marijuana involved is no more than 25 grams or the number of plants involved is no more than two. This bill eliminates the penalty for distributing or delivering marijuana if the amount of marijuana involved is no more than 25 grams or the number of plants involved is no more than two, except the penalty remains the same for distributing or delivering any amount of marijuana to a person who is no more than 17 (minor) by a person who is at least three years older than the minor.

*years of age*

2  
3 Insert 2-25

4 **SECTION 1.** 961.41 (1) (h) 1g. of the statutes is created to read:

5 961.41 (1) (h) 1g. Twenty-five grams or less, or 2 or fewer plants containing  
6 tetrahydrocannabinols, the person is guilty of a Class I felony if the person is at least  
7 17 years of age and distributes or delivers to a person who is no more than 17 years  
8 of age and who is at least 3 years younger than the person distributing or delivering. ✓

9 **SECTION 2.** 961.41 (1) (h) 1. of the statutes is renumbered 961.41 (1) (h) 1r. and  
10 amended to read:

11 961.41 (1) (h) 1r. Two hundred More than 25 grams but not more than 200  
12 grams or less, or more than 2 but not more than 4 or fewer plants containing  
13 tetrahydrocannabinols, the person is guilty of a Class I felony.

History: 1971 c. 219, 307; 1973 c. 12; 1981 c. 90, 314; 1985 a. 328; 1987 a. 339, 403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283; 1999 a. 21, 32, 48, 57; 2001 a. 16, 109; 2003 a. 33, 49, 139, 320, 325, 327; 2005 a. 14, 25, 52, 262; 2007 a. 20; 2009 a. 28, 180; 2011 a. 31; 2013 a. 20, 166, 196, 351; s. 35.17 corrections in (1m) (e) (title) and (1r).

14  
15 Insert 4-3

16 **SECTION 3.** 961.46 of the statutes is amended to read:

17 **961.46 Distribution to persons under age 18.** If a person 17 years of age  
18 or over violates s. 961.41 (1), except s. 961.41 (1) (h) 1g., by distributing or delivering

1 a controlled substance or a controlled substance analog to a person 17 years of age  
2 or under who is at least 3 years his or her junior, the applicable maximum term of  
3 imprisonment prescribed under s. 961.41 (1) for the offense may be increased by not  
4 more than 5 years.

**History:** 1971 c. 219; 1985 a. 328; 1987 a. 339; 1989 a. 121; 1993 a. 98, 118, 490; 1995 a. 27; 1995 a. 448 ss. 276 to 279; Stats. 1995 s. 961.46; 1999 a. 48, 57; 2001 a. 109.

## Hanaman, Cathlene

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**From:** Ludwig, Frederic  
**Sent:** Tuesday, March 31, 2015 12:59 PM  
**To:** Hanaman, Cathlene  
**Subject:** marijuana

Thanks for the updated draft. A few things after further thought/discussion on our end:

1. Could we include provisions that prohibit:
  - searches on the basis of smell alone and/or the presence of less than 25 grams?
  - any adverse government action (i.e. probation or parole revocation) conducted per possession of less than 25 grams
2. In the section on determining weight of the substance, it appears that this would consider the weight of the drug itself "together with any compound, mixture, diluent, plant material, or other substance mixed or combined with the controlled substance..." That means the weight of, for example, a whole brownie counts instead of just the weight of the marijuana in the brownie. That seems problematic – can you think of any way to address this?
3. Doesn't 2013 Act 293 already allow for local governments to enact ordinances prohibiting the possession of more than 25 grams?

Fred

--  
**FRED LUDWIG**  
WISCONSIN STATE REPRESENTATIVE MANDELA BARNES  
5 North, State Capitol  
608.266.3756  
[fred.ludwig@legis.wi.gov](mailto:fred.ludwig@legis.wi.gov)



State of Wisconsin  
2015 - 2016 LEGISLATURE

3  
LRB-1353/7  
CMH:wlj/wj  
Stays

Thurs 2/19 please

2015 BILL

Regen

1 AN ACT to renumber and amend 961.41 (1) (h) 1.; to amend 59.54 (25) (a)  
2 (intro.), 66.0107 (1) (bm), 961.41 (1m) (h) 1., 961.41 (1r), 961.41 (3g) (e) and  
3 961.46; and to create 961.41 (1) (h) 1g. of the statutes; relating to: possession  
4 of 25 grams or less of marijuana and distribution and delivery of marijuana.

Insert Analysis

Analysis by the Legislative Reference Bureau

Current law prohibits a person from possessing or attempting to possess; possessing with the intent to manufacture, distribute, or deliver; and manufacturing, distributing, or delivering marijuana. The penalties vary based on the amount of marijuana or plants involved or the number of previous controlled-substance convictions the person has. (INS A) (MOP)

This bill eliminates the penalty for possession of marijuana if the amount of marijuana involved is no more than 25 grams. This bill eliminates the penalty for manufacturing or for possessing with the intent to manufacture, distribute, or deliver if the amount of marijuana involved is no more than 25 grams or the number of plants involved is no more than two. This bill eliminates the penalty for distributing or delivering marijuana if the amount of marijuana involved is no more than 25 grams or the number of plants involved is no more than two, except the penalty remains the same for distributing or delivering any amount of marijuana to a person who is no more than 17 years of age (minor) by a person who is at least three years older than the minor. This bill also allows local governments to enact ordinances prohibiting the possession of more than 25 grams of marijuana.

current-law

bill retains the

INS B

only

limits

**BILL**

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

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

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

2           59.54 (25) (a) (intro.) The board may enact and enforce an ordinance to prohibit  
3 the possession of more than 25 grams of marijuana, as defined in s. 961.01 (14),  
4 subject to the exceptions in s. 961.41 (3g) (intro.), and provide a forfeiture for a  
5 violation of the ordinance; except that if a complaint is issued regarding an allegation  
6 of possession of more than 25 grams of marijuana, ~~or possession of any amount of~~  
7 marijuana following a conviction in this state for possession of more than 25 grams  
8 of marijuana, the subject of the complaint may not be prosecuted under this  
9 subsection for the same action that is the subject of the complaint unless all of the  
10 following occur:

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

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

**BILL**

1           **SECTION 3.** 961.41 (1) (h) 1. of the statutes is renumbered 961.41 (1) (h) 1r. and  
2 amended to read:

3           961.41 (1) (h) 1r. ~~Two hundred~~ More than 25 grams but not more than 200  
4 ~~grams or less, or more than 2 but not more than 4 or fewer~~ plants containing  
5 tetrahydrocannabinols, the person is guilty of a Class I felony.

6           **SECTION 4.** 961.41 (1) (h) 1g. of the statutes is created to read:

7           961.41 (1) (h) 1g. Twenty-five grams or less, or 2 or fewer plants containing  
8 tetrahydrocannabinols, the person is guilty of a Class I felony if the person is at least  
9 17 years of age and distributes or delivers to a person who is no more than 17 years  
10 of age and who is at least 3 years younger than the person distributing or delivering.

11           **SECTION 5.** 961.41 (1m) (h) 1. of the statutes is amended to read:

12           961.41 (1m) (h) 1. ~~Two hundred~~ More than 25 grams but not more than 200  
13 ~~grams or less, or more than 2 but not more than 4 or fewer~~ plants containing  
14 tetrahydrocannabinols, the person is guilty of a Class I felony.

15           **SECTION 6.** 961.41 (1r) of the statutes is amended to read:

16           961.41 (1r) DETERMINING WEIGHT OF SUBSTANCE. In determining amounts under  
17 s. 961.49 (2) (b), 1999 stats., and subs. (1) and (1m), an amount includes the weight  
18 of cocaine, cocaine base, heroin, phencyclidine, lysergic acid diethylamide, psilocin,  
19 psilocybin, amphetamine, methamphetamine, tetrahydrocannabinols, synthetic  
20 cannabinoids, or substituted cathinones, or any controlled substance analog of any  
21 of these substances together with any compound, mixture, diluent, plant material  
22 or other substance mixed or combined with the controlled substance or controlled  
23 substance analog. In addition, in determining amounts under subs. (1) (h) and (1m)  
24 (h), the amount of tetrahydrocannabinols ~~means anything included under s. 961.14~~  
25 ~~(4) (t) and~~ includes the weight of any marijuana.

INS  
3-15

STER





2015-2016 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1353/3ins  
CMH:.....

1 Insert Analysis

Current law prohibits a person from possessing or attempting to possess; possessing with the intent to manufacture, distribute, or deliver; and manufacturing, distributing, or delivering marijuana. The penalties vary based on the amount of marijuana or plants involved or the number of previous controlled-substance convictions the person has. Current law also allows local governments to enact ordinances prohibiting the possession of marijuana.

This bill eliminates 1) the penalty for possession of marijuana if the amount of marijuana involved is no more than 25 grams; 2) the penalty for manufacturing or for possessing with the intent to manufacture, distribute, or deliver if the amount of marijuana involved is no more than 25 grams or the number of plants involved is no more than two; and 3) the penalty for distributing or delivering marijuana if the amount of marijuana involved is no more than 25 grams or the number of plants involved is no more than two. The bill retains the current-law penalty for distributing or delivering any amount of marijuana to a person who is no more than 17 years of age (minor) by a person who is at least three years older than the minor. This bill limits local governments to enacting ordinances prohibiting only the possession of more than 25 grams of marijuana.

The bill also prohibits establishing probable cause that a person is violating the prohibition against possessing more than 25 grams of marijuana by an odor of marijuana or by the possession of not more than 25 grams of marijuana.

Current law requires that, when determining the weight of controlled substances, the weight includes the weight of the controlled substance together with any compound, mixture, or other substance mixed or combined with the controlled substance. Under this bill, when determining the amount of tetrahydrocannabinols, only the weight of the marijuana may be considered.

2 Insert 3-15

3 SECTION 1. 961.41 (1q) (title) of the statutes is repealed and recreated to read:

4 961.41 (1q) (title) ~~PENALTY RELATING TO TETRAHYDROCANNABINOLS IN CERTAIN~~  
5 ~~CASES~~ <sup>plain</sup> TETRAHYDROCANNABINOLS PENALTY AND PROBABLE CAUSE.

History: 1971 c. 219, 307; 1973 c. 12; 1981 c. 90, 314; 1985 a. 328; 1987 a. 339, 403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283; 1999 a. 21, 32, 48, 57; 2001 a. 16, 109; 2003 a. 33, 49, 139, 320, 325, 327; 2005 a. 14, 25, 52, 262; 2007 a. 20; 2009 a. 28, 180; 2011 a. 31; 2013 a. 20, 166, 196, 351; s. 35.17 corrections in (1m) (e) (title) and (1r).

6 SECTION 2. 961.41 (1q) of the statutes is renumbered 961.41 (1q) (a).

7 SECTION 3. 961.41 (1q) (b) and (c) of the statutes are created to read:

1           961.41 (1q) (b) The following are not sufficient to establish probable cause that  
2 a violation of sub. (1) (h) has occurred:

- 3           1. Odor of marijuana.  
4           2. The possession of not more than 25 grams of marijuana.

5           (c) No individual on parole, probation, extended supervision, supervised  
6 release, or any other release may have the release revoked for possessing not more  
7 than 25 grams of marijuana.

8           **SECTION 4.** 961.41 (1r) of the statutes is amended to read:

9           961.41 (1r) DETERMINING WEIGHT OF SUBSTANCE. In determining amounts under  
10 s. 961.49 (2) (b), 1999 stats., and subs. (1) and (1m), an amount includes the weight  
11 of cocaine, cocaine base, heroin, phencyclidine, lysergic acid diethylamide, psilocin,  
12 psilocybin, amphetamine, methamphetamine, ~~tetrahydrocannabinols~~, synthetic  
13 cannabinoids, or substituted cathinones, or any controlled substance analog of any  
14 of these substances together with any compound, mixture, diluent, plant material  
15 or other substance mixed or combined with the controlled substance or controlled  
16 substance analog. ~~In addition, in determining amounts under subs. (1) (h) and (1m)~~  
17 ~~(h), and (3g) (e) the amount of tetrahydrocannabinols means anything included~~  
18 ~~under s. 961.14 (4) (t) and includes~~ means the weight of any only marijuana.

History: 1971 c. 219, 307; 1973 c. 12; 1981 c. 90, 314; 1985 a. 328; 1987 a. 339, 403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283; 1999 a. 21, 32, 48, 57; 2001 a. 16, 109; 2003 a. 33, 49, 139, 320, 325, 327; 2005 a. 14, 25, 52, 262; 2007 a. 20; 2009 a. 28, 180; 2011 a. 31; 2013 a. 20, 166, 196, 351; s. 35.17 corrections in (1m) (e) (title) and (1r).

**Parisi, Lori**

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**From:** Ludwig, Frederic  
**Sent:** Monday, May 11, 2015 3:03 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -1353/3 Topic: Eliminate criminal penalty for possessing less than 25 grams of marijuana

Please Jacket LRB -1353/3 for the ASSEMBLY.

---  
**FRED LUDWIG**  
WISCONSIN STATE REPRESENTATIVE MANDELA BARNES  
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