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 statutes; relating to: butane extraction of resin from marijuana plants and 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:

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

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

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

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

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

961.41 (3g) (dt) Resin separated through butane extraction. 1. If a person possesses or attempts to possess plant resin that has been directly or indirectly separated from a marijuana plant by butane or other similar fuel extraction, 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 one of the following for a 2nd or subsequent offense:

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

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

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

2. For purposes of this paragraph, an offense is considered a 2nd or subsequent offense if, prior to the offender’s conviction of the offense, 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.

(END)