



2011 ASSEMBLY BILL 702

March 15, 2012 - Introduced by Representatives HONADEL and RIVARD. Referred to Committee on Criminal Justice and Corrections.

1 **AN ACT to amend** 59.54 (25) and 66.0107 (1) (bm) of the statutes; **relating to:**
2 second and subsequent charges of possession of marijuana under a local
3 ordinance.

Analysis by the Legislative Reference Bureau

Under current law, any city, village, town, or county may enact and enforce an ordinance to prohibit the possession of 25 grams or less of marijuana and provide a forfeiture (a civil penalty) for a violation of the ordinance. The ordinance, however, cannot be used to prosecute a person who has previously been convicted of possessing marijuana. Under this bill, the ordinance may be used to prosecute a person who has previously been convicted of possessing marijuana if the person is not prosecuted under the state prohibition against possession.

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:

4 **SECTION 1.** 59.54 (25) of the statutes is amended to read:
5 **59.54 (25) POSSESSION OF MARIJUANA.** The board may enact and enforce an
6 ordinance to prohibit the possession of 25 grams or less of marijuana, as defined in

ASSEMBLY BILL 702**SECTION 1**

1 s. 961.01 (14), subject to the exceptions in s. 961.41 (3g) (intro.), and provide a
2 forfeiture for a violation of the ordinance; except that any person who is charged with
3 possession of more than 25 grams of marijuana, ~~or may not be prosecuted under an~~
4 ordinance enacted under this subsection and a person who is charged with
5 possession of any amount of marijuana following a conviction in this state for
6 possession of marijuana, ~~in this state shall not~~ may be prosecuted under an
7 ordinance enacted under this subsection only if the person is not prosecuted under
8 s. 961.41 (3g) (e). Any ordinance enacted under this subsection applies in every
9 municipality within the county.

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

11 66.0107 (1) (bm) Enact and enforce an ordinance to prohibit the possession of
12 25 grams or less of marijuana, as defined in s. 961.01 (14), subject to the exceptions
13 in s. 961.41 (3g) (intro.), and provide a forfeiture for a violation of the ordinance;
14 except that any person who is charged with possession of more than 25 grams of
15 marijuana, ~~or may not be prosecuted under an ordinance enacted under this~~
16 paragraph and a person who is charged with possession of any amount of marijuana
17 following a conviction in this state for possession of marijuana, ~~in this state shall not~~
18 may be prosecuted under an ordinance enacted under this paragraph only if the
19 person is not prosecuted under s. 961.41 (3g) (e).

20 **SECTION 3. Initial applicability.**

21 (1) This act first applies to an individual who is charged with a marijuana
22 violation on the effective date of this subsection.

23 (END)