

HB483

By Representative Robinson (J)

RFD Judiciary

Rd 1 17-FEB-05

SYNOPSIS: Under existing law, a person convicted of the most serious offense for trafficking in illegal drugs and sentenced to life imprisonment without parole, is not subject to a fine.

This bill would require a person convicted of the most serious offense for trafficking in illegal drugs and sentenced to life imprisonment without parole to pay a fine as specified.

Under existing law, a person convicted of possession of over 4,000, but less than 10,000 capsules or pills of hydromorphone is subject to a fine of \$100,000.

This bill would increase the fine for a person convicted of possessing that amount of hydromorphone to \$250,000.

Amendment 621 of the Constitution of Alabama of 1901 prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local funds within the meaning of Amendment 621. However, the bill does not require approval of a local governmental entity or enactment by a 2/3 vote to become effective because it comes within one of the specified exceptions contained in Amendment 621.

A BILL
TO BE ENTITLED
AN ACT

To amend Section 13A-12-231, Code of Alabama 1975, relating to trafficking in illegal drugs; to require a person convicted of trafficking in illegal drugs and sentenced to life imprisonment without parole to pay a fine; to increase the fine for a person convicted of possessing a certain amount of hydromorphone; and in connection therewith would have as its purpose or effect the

requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution of Alabama of 1901.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 13A-12-231, Code of Alabama 1975, is amended to read as follows:

§13A-12-231.

"Except as authorized in Chapter 2, Title 20:

"(1) Any person who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, in excess of one kilo or 2.2 pounds of any part of the plant of the genus Cannabis, whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin including the completely defoliated mature stalks of the plant, fiber produced from the stalks, oil, or cake, or the completely sterilized samples of seeds of the plant which are incapable of germination is guilty of a felony, which felony shall be known as "trafficking in cannabis." Nothing in this subdivision shall apply to samples of tetrahydrocannabinols including, but not limited to, all synthetic or naturally produced samples of tetrahydrocannabinols which contain more than 15 percent by weight of tetrahydrocannabinols and which do not contain plant material exhibiting the external morphological features of the plant cannabis. If the quantity of cannabis involved:

"a. Is in excess of one kilo or 2.2 pounds, but less than 100 pounds, the person shall be sentenced to a mandatory minimum term of imprisonment of three calendar years and to pay a fine of twenty-five thousand dollars (\$25,000).

"b. Is 100 pounds or more, but less than 500 pounds, the person shall be sentenced to a mandatory minimum term of imprisonment of five calendar years and to pay a fine of fifty thousand dollars (\$50,000).

"c. Is 500 pounds or more, but less than 1,000 pounds, the person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and to pay a fine of two hundred thousand dollars (\$200,000).

"d. Is 1,000 pounds or more, the person shall be sentenced to a mandatory term of imprisonment of life without parole and to pay a fine of two hundred fifty thousand dollars (\$250,000).

"(2) Any person who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of cocaine or of any mixture containing cocaine, described in Section 20-2-25(1), is guilty of a felony, which felony shall be known as "trafficking in cocaine." If the quantity involved:

"a. Is 28 grams or more, but less than 500 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of three calendar years and to pay a fine of fifty thousand dollars (\$50,000).

"b. Is 500 grams or more, but less than one kilo, the person shall be sentenced to a mandatory minimum term of imprisonment of five calendar years and to pay a fine of one hundred thousand dollars (\$100,000).

"c. Is one kilo, but less than 10 kilos, then the person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and to pay a fine of two hundred fifty thousand dollars (\$250,000).

"d. Is 10 kilos or more, the person shall be sentenced to a mandatory term of imprisonment of life without parole and to pay a fine of three hundred thousand dollars (\$300,000).

"(3) Any person who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, four grams or more of any morphine, opium, or any salt, isomer, or salt of an isomer thereof, including heroin, as described in Section 20-2-23(2) or Section 20-2-25(1)a., or four grams or more of any mixture containing any such substance, is guilty of a felony, which felony shall be known as "trafficking in illegal drugs." If the quantity involved:

"a. Is four grams or more, but less than 14 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of three calendar years and to pay a fine of fifty thousand dollars (\$50,000).

"b. Is 14 grams or more, but less than 28 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of 10 calendar years and to pay a fine of one hundred thousand dollars (\$100,000).

"c. Is 28 grams or more, but less than 56 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of 25 calendar years and to pay a fine of five hundred thousand dollars (\$500,000).

"d. Is 56 grams or more, the person shall be sentenced to a mandatory term of imprisonment of life without parole and to pay a fine of six hundred thousand (\$600,000).

"(4) Any person who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of 1,000 or more pills or capsules of methaqualone, as described in Section 20-2-1, et seq., is guilty of a felony, which felony shall be known as "trafficking in illegal drugs." If the quantity involved:

"a. Is 1,000 pills or capsules, but less than 5,000 pills or capsules, the person shall be sentenced to a mandatory minimum term of imprisonment of three calendar years and pay a fine of fifty thousand dollars (\$50,000).

"b. Is 5,000 capsules or more, but less than 25,000 capsules, that person shall be imprisoned to a mandatory minimum term of imprisonment of 10 calendar years and pay a fine of one hundred thousand dollars (\$100,000).

"c. Is 25,000 pills or more, but less than 100,000 pills or capsules, the person shall be sentenced to a mandatory minimum term of imprisonment of 25 calendar years and pay a fine of five hundred thousand dollars (\$500,000).

"d. Is 100,000 capsules or more, the person shall be sentenced to a mandatory term of imprisonment of life without parole and to pay a fine of six hundred thousand dollars (\$600,000).

"(5) Any person who knowingly sells, manufactures, delivers or brings into this state, or who is knowingly in actual or constructive possession of 500 or more pills or capsules of hydromorphone as is described in Section 20-2-1, et seq., is guilty of a felony which shall be known as "trafficking in illegal drugs." If the quantity involved:

"a. Is 500 pills or capsules or more but less than 1,000 pills or capsules, the person shall be sentenced to a mandatory term of imprisonment of three calendar years and to pay a fine of fifty thousand dollars (\$50,000).

"b. Is 1,000 pills or capsules or more, but less than 4,000 pills or capsules, the person shall be sentenced to a mandatory term of imprisonment of 10 calendar years and to pay a fine of one hundred thousand dollars (\$100,000).

"c. Is 4,000 pills or capsules or more but less than 10,000 pills or capsules, the person shall be sentenced to a mandatory term of imprisonment of 25 calendar years and to pay a fine of ~~one hundred thousand dollars (\$100,000)~~ two hundred fifty thousand dollars (\$250,000).

"d. Is more than 10,000 pills or capsules, the person shall be sentenced to a mandatory term of life in prison without parole and to pay a fine of five hundred thousand dollars (\$500,000).

"(6) Any person who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of 3,4-methylenedioxy amphetamine, or of any mixture containing 3,4-methylenedioxy amphetamine, is guilty of a felony, which felony shall be known as "trafficking in illegal drugs." If the quantity involved:

"a. Is 28 grams or more, but less than 500 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of three calendar years and to pay a fine of fifty thousand dollars (\$50,000).

"b. Is 500 grams or more, but less than one kilo, the person shall be sentenced to a mandatory minimum term of imprisonment of five calendar years and to pay a fine of one hundred thousand dollars (\$100,000).

"c. Is one kilo, but less than 10 kilos, then the person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and to pay a fine of two hundred fifty thousand dollars (\$250,000).

"d. Is 10 kilos or more, the person shall be sentenced to a mandatory term of imprisonment of life without parole and to pay a fine of five hundred thousand dollars (\$500,000).

"(7) Any person who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of 5-methoxy-3, 4-methylenedioxy amphetamine, or of any mixture containing 5-methoxy-3, 4-methylenedioxy amphetamine is guilty of a felony, which felony shall be known as "trafficking in illegal drugs" if the quantity involved:

"a. Is 28 grams or more, but less than 500 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of three calendar years and to pay a fine of fifty thousand dollars (\$50,000).

"b. Is 500 grams or more, but less than one kilo, the person shall be sentenced to a mandatory minimum term of imprisonment of five calendar years and to pay a fine of one hundred thousand dollars (\$100,000).

"c. Is one kilo, but less than 10 kilos, then the person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and to pay a fine of two hundred fifty thousand dollars (\$250,000).

"d. Is 10 kilos or more, the person shall be sentenced to a mandatory term of imprisonment of life without parole and to pay a fine of five hundred thousand dollars (\$500,000).

"(8) Any person who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, four grams or more of phencyclidine, or any

mixture containing phencyclidine, is guilty of a felony, which felony shall be known as "trafficking in illegal drugs." If the quantity involved:

"a. Is four grams or more, but less than 14 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of three calendar years and to pay a fine of fifty thousand dollars (\$50,000).

"b. Is 14 grams or more, but less than 28 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of five calendar years and to pay a fine of one hundred thousand dollars (\$100,000).

"c. Is 28 grams or more, but less than 56 grams, then the person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and to pay a fine of two hundred fifty thousand dollars (\$250,000).

"d. Is 56 grams or more, the person shall be sentenced to a mandatory term of imprisonment of life without parole and to pay a fine of five hundred thousand dollars (\$500,000).

"(9) Any person who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, four grams or more of lysergic acid diethylamide, of four grams or more of any mixture containing lysergic acid diethylamide, is guilty of a felony, which felony shall be known as "trafficking in illegal drugs." If the quantity involved:

"a. Is four grams or more, but less than 14 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of three calendar years and to pay a fine of fifty thousand dollars (\$50,000).

"b. Is 14 grams or more, but less than 28 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of 10 calendar years and to pay a fine of one hundred thousand dollars (\$100,000).

"c. Is 28 grams or more, but less than 56 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of 25 calendar years and to pay a fine of five hundred thousand dollars (\$500,000).

"d. Is 56 grams or more, the person shall be sentenced to a mandatory term of imprisonment of life without parole and to pay a fine of six hundred thousand dollars (\$600,000).

"(10) Any person who knowingly sells, manufactures, delivers or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of amphetamine or any mixture containing amphetamine, its salt, optical isomer, or salt of its optical isomer thereof, is guilty of a felony, which felony shall be known as "trafficking in amphetamine." If the quantity involved:

"a. Is 28 grams or more but less than 500 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of three calendar years and to pay a fine of fifty thousand dollars (\$50,000).

"b. Is 500 grams or more, but less than one kilo, the person shall be sentenced to a mandatory minimum term of imprisonment of five calendar years and to pay a fine of one hundred thousand dollars (\$100,000).

"c. Is one kilo but less than 10 kilos, then the person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and to pay a fine of two hundred fifty thousand dollars (\$250,000).

"d. Is 10 kilos or more, the person shall be sentenced to a mandatory term of imprisonment of life without parole and to pay a fine of five hundred thousand dollars (\$500,000).

"(11) Any person who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of methamphetamine or any mixture containing methamphetamine, its salts, optical isomers, or salt of its optical isomers thereof, is guilty of a felony, which felony shall be known as "trafficking in methamphetamine." If the quantity involved:

"a. Is 28 grams or more but less than 500 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of three calendar years and to pay a fine of fifty thousand dollars (\$50,000).

"b. Is 500 grams or more, but less than one kilo, the person shall be sentenced to a mandatory minimum term of imprisonment of five calendar years and to pay a fine of one hundred thousand dollars (\$100,000).

"c. Is one kilo but less than 10 kilos, then the person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and to pay a fine of two hundred fifty thousand dollars (\$250,000).

"d. Is 10 kilos or more, the person shall be sentenced to a mandatory term of imprisonment of life without parole and to pay a fine of five hundred thousand dollars (\$500,000).

"(12) The felonies of "trafficking in cannabis," "trafficking in cocaine," "trafficking in illegal drugs," "trafficking in amphetamine," and "trafficking in methamphetamine" as defined in subdivisions (1) through (11), above, shall be treated as Class A felonies for purposes of Title 13A, including sentencing under Section 13A-5-9. Provided, however, that the sentence of imprisonment for a defendant with one or more prior felony convictions who violates subdivisions (1) through (11) of this section shall be the sentence provided therein, or the sentence provided under Section 13A-5-9, whichever is greater. Provided further, that the fine for a defendant with one or more prior felony convictions who violates subdivisions (1) through (11) of this section shall be the fine provided therein, or the fine provided under Section 13A-5-9, whichever is greater.

"(13) Notwithstanding any provision of law to the contrary, any person who has possession of a firearm during the commission of any act proscribed by this section shall be punished by a term of imprisonment of five calendar years which shall be in addition to, and not in lieu of, the punishment otherwise provided, and a fine of twenty-five thousand dollars (\$25,000); the court shall not suspend the five-year additional sentence of the person or give the person a probationary sentence."

Section 2. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Crimes and Offenses

Criminal Law and Procedure

Drug Trafficking

Drugs

Sentencing

Hydromorphone

Code Amended