



State of Wisconsin  
2017 - 2018 LEGISLATURE

LRB-1507/1  
CMH:kjf

## 2017 ASSEMBLY BILL 409

June 27, 2017 - Introduced by Representatives JARCHOW, GOYKE, BROSTOFF, BERNIER, KITCHENS, KOYENGA, SCHRAA, TITTL, ANDERSON, BERCEAU, BOWEN, CONSIDINE, CROWLEY, HINTZ, KESSLER, KOLSTE, MASON, SARGENT, SPREITZER, SUBECK, C. TAYLOR and ZEPNICK, cosponsored by Senators RISSER, L. TAYLOR, HANSEN, JOHNSON and MILLER. Referred to Committee on Criminal Justice and Public Safety.

1     **AN ACT** *to renumber and amend* 961.41 (3g) (e); and *to amend* 59.54 (25) (a)  
2           (intro.) and 66.0107 (1) (bm) of the statutes; **relating to:** possession of not more  
3           than 10 grams of marijuana.

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

Current law prohibits a person from possessing or attempting to possess marijuana. A person who is convicted of violating the prohibition may be fined not more than \$1,000 or imprisoned for not more than six months, or both, for a first conviction and is guilty of a Class I felony for a second or subsequent conviction. This bill reduces to a \$100 forfeiture the penalty for possessing or attempting to possess not more than 10 grams of marijuana and eliminates the increase in penalty if second or subsequent violations involve not more than 10 grams of marijuana.

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

4           **SECTION 1.** 59.54 (25) (a) (intro.) of the statutes is amended to read:  
5           59.54 (25) (a) (intro.) The board may enact and enforce an ordinance to prohibit  
6           the possession of marijuana, as defined in s. 961.01 (14), subject to the exceptions in  
7           s. 961.41 (3g) (intro.), and provide a forfeiture for a violation of the ordinance; except

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1 that if a complaint is issued regarding an allegation of possession of more than 25  
2 grams of marijuana, or possession of any amount more than 10 grams of marijuana  
3 following a conviction in this state for possession of more than 10 grams of  
4 marijuana, the subject of the complaint may not be prosecuted under this subsection  
5 for the same action that is the subject of the complaint unless all of the following  
6 occur:

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

8 66.0107 (1) (bm) Enact and enforce an ordinance to prohibit the possession of  
9 marijuana, as defined in s. 961.01 (14), subject to the exceptions in s. 961.41 (3g)  
10 (intro.), and provide a forfeiture for a violation of the ordinance; except that if a  
11 complaint is issued regarding an allegation of possession of more than 25 grams of  
12 marijuana, or possession of any amount more than 10 grams of marijuana following  
13 a conviction in this state for possession of more than 10 grams of marijuana, the  
14 subject of the complaint may not be prosecuted under this paragraph for the same  
15 action that is the subject of the complaint unless the charges are dismissed or the  
16 district attorney declines to prosecute the case.

17 **SECTION 3.** 961.41 (3g) (e) of the statutes is renumbered 961.41 (3g) (e) 1. and  
18 amended to read:

19 961.41 (3g) (e) 1. If a person possesses or attempts to possess not more than  
20 10 grams of tetrahydrocannabinols included under s. 961.14 (4) (t), or a controlled  
21 substance analog of tetrahydrocannabinols, the person may be subject to a forfeiture  
22 of not more than \$100.

23 2. If a person possesses or attempts to possess more than 10 grams of  
24 tetrahydrocannabinols included under s. 961.14 (4) (t), or a controlled substance  
25 analog of tetrahydrocannabinols, the person may be fined not more than \$1,000 or

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1 imprisoned for not more than 6 months or both upon a first conviction and is guilty  
2 of a Class I felony for a 2nd or subsequent ~~offense~~ conviction under this subdivision.  
3 For purposes of this ~~paragraph~~, ~~an offense~~ subdivision, a conviction is considered a  
4 2nd or subsequent ~~offense~~ conviction if, prior to the offender's conviction ~~of the~~  
5 ~~offense~~, the offender has at any time been convicted of any felony or misdemeanor  
6 under this chapter or under any statute of the United States or of any state relating  
7 to controlled substances, controlled substance analogs, narcotic drugs, marijuana,  
8 or depressant, stimulant, or hallucinogenic drugs.

9 **SECTION 4. Initial applicability.**

10 (1) The treatment of section 961.41 (3g) (e) of the statutes first applies to  
11 violations committed on the effective date of this subsection, but no prior conviction  
12 under section 961.41 (3g) (e) of the statutes involving not more than 10 grams of  
13 tetrahydrocannabinols may be counted for the purposes of sentencing a person.

14 (END)