

1 HB607  
2 160467-1  
3 By Representative England  
4 RFD: Judiciary  
5 First Read: 13-MAR-14

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8 SYNOPSIS: Under existing law, if a criminal defendant  
9 is convicted of a Class A felony, and the defendant  
10 was previously convicted of three prior felonies at  
11 least one of which was a Class A felony, the  
12 defendant is required to be sentenced to life  
13 without parole.

14 This bill would delete the mandatory  
15 sentence to life without parole under the  
16 circumstances provided above and authorize the  
17 sentencing judge to sentence the defendant to  
18 either life or life without parole.

19 Under existing law, the penalty for the  
20 trafficking of specified quantities of certain  
21 illegal drugs is a mandatory term of life without  
22 parole.

23 This bill would revise the penalty to a  
24 mandatory term of life with the possibility of  
25 parole.

26 Amendment 621 of the Constitution of Alabama  
27 of 1901, now appearing as Section 111.05 of the

1 Official ReCompilation of the Constitution of  
2 Alabama of 1901, as amended, prohibits a general  
3 law whose purpose or effect would be to require a  
4 new or increased expenditure of local funds from  
5 becoming effective with regard to a local  
6 governmental entity without enactment by a 2/3 vote  
7 unless: it comes within one of a number of  
8 specified exceptions; it is approved by the  
9 affected entity; or the Legislature appropriates  
10 funds, or provides a local source of revenue, to  
11 the entity for the purpose.

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

19  
20 A BILL

21 TO BE ENTITLED

22 AN ACT

23  
24 To amend Sections 13A-5-9 and 13A-12-231, Code of  
25 Alabama 1975, to further provide for the criminal penalties  
26 for certain habitual felony offenders convicted of a Class A  
27 felony after three prior felony convictions and the criminal

1 penalties for the trafficking of specified quantities of  
2 certain drugs; to delete the mandatory sentence requirements  
3 of life without parole; and in connection therewith would have  
4 as its purpose or effect the requirement of a new or increased  
5 expenditure of local funds within the meaning of Amendment 621  
6 of the Constitution of Alabama of 1901, now appearing as  
7 Section 111.05 of the Official Recompilation of the  
8 Constitution of Alabama of 1901, as amended.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. Sections 13A-5-9 and 13A-12-231, Code of  
11 Alabama 1975, are amended to read as follows:

12 "§13A-5-9.

13 "(a) In all cases when it is shown that a criminal  
14 defendant has been previously convicted of a felony and after  
15 the conviction has committed another felony, he or she must be  
16 punished as follows:

17 "(1) On conviction of a Class C felony, he or she  
18 must be punished for a Class B felony.

19 "(2) On conviction of a Class B felony, he or she  
20 must be punished for a Class A felony.

21 "(3) On conviction of a Class A felony, he or she  
22 must be punished by imprisonment for life or for any term of  
23 not more than 99 years but not less than 15 years.

24 "(b) In all cases when it is shown that a criminal  
25 defendant has been previously convicted of any two felonies  
26 and after such convictions has committed another felony, he or  
27 she must be punished as follows:

1           "(1) On conviction of a Class C felony, he or she  
2 must be punished for a Class A felony.

3           "(2) On conviction of a Class B felony, he or she  
4 must be punished by imprisonment for life or for any term of  
5 not more than 99 years but not less than 15 years.

6           "(3) On conviction of a Class A felony, he or she  
7 must be punished by imprisonment for life or for any term of  
8 not less than 99 years.

9           "(c) In all cases when it is shown that a criminal  
10 defendant has been previously convicted of any three felonies  
11 and after such convictions has committed another felony, he or  
12 she must be punished as follows:

13           "(1) On conviction of a Class C felony, he or she  
14 must be punished by imprisonment for life or for any term of  
15 not more than 99 years but not less than 15 years.

16           "(2) On conviction of a Class B felony, he or she  
17 must be punished by imprisonment for life or any term of not  
18 less than 20 years.

19           "(3) On conviction of a Class A felony, ~~where the~~  
20 ~~defendant has no prior convictions for any Class A felony,~~ he  
21 or she must be punished by imprisonment for life or life  
22 without the possibility of parole, in the discretion of the  
23 trial court.

24           ~~"(4) On conviction of a Class A felony, where the~~  
25 ~~defendant has one or more prior convictions for any Class A~~  
26 ~~felony, he or she must be punished by imprisonment for life~~  
27 ~~without the possibility of parole.~~

1           "§13A-12-231.

2           "Except as authorized in Chapter 2, Title 20:

3           "(1) Any person who knowingly sells, manufactures,  
4 delivers, or brings into this state, or who is knowingly in  
5 actual or constructive possession of, in excess of one kilo or  
6 2.2 pounds of any part of the plant of the genus Cannabis,  
7 whether growing or not, the seeds thereof, the resin extracted  
8 from any part of the plant, and every compound, manufacture,  
9 salt, derivative, mixture, or preparation of the plant, its  
10 seeds, or resin including the completely defoliated mature  
11 stalks of the plant, fiber produced from the stalks, oil, or  
12 cake, or the completely sterilized samples of seeds of the  
13 plant which are incapable of germination is guilty of a  
14 felony, which felony shall be known as "trafficking in  
15 cannabis." Nothing in this subdivision shall apply to samples  
16 of tetrahydrocannabinols including, but not limited to, all  
17 synthetic or naturally produced samples of  
18 tetrahydrocannabinols which contain more than 15 percent by  
19 weight of tetrahydrocannabinols and which do not contain plant  
20 material exhibiting the external morphological features of the  
21 plant cannabis. If the quantity of cannabis involved:

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

26           "b. Is 100 pounds or more, but less than 500 pounds,  
27 the person shall be sentenced to a mandatory minimum term of

1 imprisonment of five calendar years and to pay a fine of fifty  
2 thousand dollars (\$50,000).

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

7 "d. Is 1,000 pounds or more, the person shall be  
8 sentenced to a mandatory term of imprisonment of life ~~without~~  
9 ~~parole~~.

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

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

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

25 "c. Is one kilo, but less than 10 kilos, then the  
26 person shall be sentenced to a mandatory minimum term of

1 imprisonment of 15 calendar years and to pay a fine of two  
2 hundred fifty thousand dollars (\$250,000).

3 "d. Is 10 kilos or more, the person shall be  
4 sentenced to a mandatory term of imprisonment of life ~~without~~  
5 ~~parole~~.

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

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

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

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

1           "d. Is 56 grams or more, the person shall be  
2 sentenced to a mandatory term of imprisonment of life ~~without~~  
3 ~~parole~~.

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

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

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

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

22           "d. Is 100,000 capsules or more, the person shall be  
23 sentenced to a mandatory term of imprisonment of life ~~without~~  
24 ~~parole~~.

25           "(5) Any person who knowingly sells, manufactures,  
26 delivers or brings into this state, or who is knowingly in  
27 actual or constructive possession of 500 or more pills or

1 capsules of hydromorphone as is described in Section 20-2-1,  
2 et seq., is guilty of a felony which shall be known as  
3 "trafficking in illegal drugs." If the quantity involved:

4 "a. Is 500 pills or capsules or more but less than  
5 1,000 pills or capsules, the person shall be sentenced to a  
6 mandatory term of imprisonment of three calendar years and to  
7 pay a fine of fifty thousand dollars (\$50,000).

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

12 "c. Is 4,000 pills or capsules or more but less than  
13 10,000 pills or capsules, the person shall be sentenced to a  
14 mandatory term of imprisonment of 25 calendar years and to pay  
15 a fine of one hundred thousand dollars (\$100,000).

16 "d. Is more than 10,000 pills or capsules, the  
17 person shall be sentenced to a mandatory term of imprisonment  
18 of life in prison ~~without parole~~.

19 "(6) Any person who knowingly sells, manufactures,  
20 delivers, or brings into this state, or who is knowingly in  
21 actual or constructive possession of, 28 grams or more of  
22 3,4-methylenedioxy amphetamine, or of any mixture containing  
23 3,4-methylenedioxy amphetamine, is guilty of a felony, which  
24 felony shall be known as "trafficking in illegal drugs." If  
25 the quantity involved:

26 "a. Is 28 grams or more, but less than 500 grams,  
27 the person shall be sentenced to a mandatory minimum term of

1 imprisonment of three calendar years and to pay a fine of  
2 fifty thousand dollars (\$50,000).

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

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

11 "d. Is 10 kilos or more, the person shall be  
12 sentenced to a mandatory term of imprisonment of life ~~without~~  
13 ~~parole~~.

14 "(7) Any person who knowingly sells, manufactures,  
15 delivers, or brings into this state, or who is knowingly in  
16 actual or constructive possession of, 28 grams or more of  
17 5-methoxy-3, 4-methylenedioxy amphetamine, or of any mixture  
18 containing 5-methoxy-3, 4-methylenedioxy amphetamine is guilty  
19 of a felony, which felony shall be known as "trafficking in  
20 illegal drugs" if the quantity involved:

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

25 "b. Is 500 grams or more, but less than one kilo,  
26 the person shall be sentenced to a mandatory minimum term of

1 imprisonment of five calendar years and to pay a fine of one  
2 hundred thousand dollars (\$100,000).

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

7 "d. Is 10 kilos or more, the person shall be  
8 sentenced to a mandatory term of imprisonment of life ~~without~~  
9 ~~parole~~.

10 "(8) Any person who knowingly sells, manufactures,  
11 delivers, or brings into this state, or who is knowingly in  
12 actual or constructive possession of, four grams or more of  
13 phencyclidine, or any mixture containing phencyclidine, is  
14 guilty of a felony, which felony shall be known as  
15 "trafficking in illegal drugs." If the quantity involved:

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

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

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

1            "d. Is 56 grams or more, the person shall be  
2 sentenced to a mandatory term of imprisonment of life ~~without~~  
3 ~~parole~~.

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

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

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

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

23            "d. Is 56 grams or more, the person shall be  
24 sentenced to a mandatory term of imprisonment of life ~~without~~  
25 ~~parole~~.

26            "(10) Any person who knowingly sells, manufactures,  
27 delivers or brings into this state, or who is knowingly in

1 actual or constructive possession of, 28 grams or more of  
2 amphetamine or any mixture containing amphetamine, its salt,  
3 optical isomer, or salt of its optical isomer thereof, is  
4 guilty of a felony, which felony shall be known as  
5 "trafficking in amphetamine." If the quantity involved:

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

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

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

18 "d. Is 10 kilos or more, the person shall be  
19 sentenced to a mandatory term of imprisonment of life ~~without~~  
20 ~~parole~~.

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

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

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

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

13           "d. Is 10 kilos or more, the person shall be  
14 sentenced to a mandatory term of imprisonment of life ~~without~~  
15 ~~parole~~.

16           "(12) Any person who knowingly sells, manufactures,  
17 delivers, or brings into this state, or who is knowingly in  
18 actual or constructive possession of 28 or more grams of a  
19 controlled substance analog, as described in Section 20-2-23,  
20 is guilty of a felony, which felony shall be known as  
21 "trafficking in controlled substance analogs." If the quantity  
22 involved:

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

1            "b. Is 500 grams or more, but less than 1 kilo, the  
2 person shall be sentenced to a mandatory minimum term of  
3 imprisonment of 10 calendar years and to pay a fine of one  
4 hundred thousand dollars (\$100,000).

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

9            "d. Is 10 kilos or more, the person shall be  
10 sentenced to a mandatory term of imprisonment of life ~~without~~  
11 ~~parole~~.

12            "(13) The felonies of "trafficking in cannabis,"  
13 "trafficking in cocaine," "trafficking in illegal drugs,"  
14 "trafficking in amphetamine," "trafficking in  
15 methamphetamine," and "trafficking in controlled substance  
16 analogs" as defined in subdivisions (1) through (12), above,  
17 shall be treated as Class A felonies for purposes of Title  
18 13A, including sentencing under Section 13A-5-9. Provided,  
19 however, that the sentence of imprisonment for a defendant  
20 with one or more prior felony convictions who violates  
21 subdivisions (1) through (12) of this section shall be the  
22 sentence provided therein, or the sentence provided under  
23 Section 13A-5-9, whichever is greater. Provided further, that  
24 the fine for a defendant with one or more prior felony  
25 convictions who violates subdivisions (1) through (12) of this  
26 section shall be the fine provided therein, or the fine  
27 provided under Section 13A-5-9, whichever is greater.

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

10           Section 2. Although this bill would have as its  
11 purpose or effect the requirement of a new or increased  
12 expenditure of local funds, the bill is excluded from further  
13 requirements and application under Amendment 621, now  
14 appearing as Section 111.05 of the Official Recompilation of  
15 the Constitution of Alabama of 1901, as amended, because the  
16 bill defines a new crime or amends the definition of an  
17 existing crime.

18           Section 3. This act shall become effective  
19 immediately following its passage and approval by the  
20 Governor, or its otherwise becoming law.