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**Public Safety & Emergency Preparedness  
Committee**

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**HB 1177**

**Brief Description:** Reclassifying possession of forty grams or less of marijuana from a misdemeanor to a class 2 civil infraction.

**Sponsors:** Representatives Upthegrove, Williams, Moeller, Appleton, Pedersen, Ormsby, Dickerson, Carlyle, Roberts, Wood, Cody and Nelson.

**Brief Summary of Bill**

- Reduces the penalty for the possession of 40 grams or less of marijuana and the unlawful use of drug paraphernalia from a misdemeanor to a civil infraction.
- Requires all monetary penalties collected for the civil infractions to be deposited into the Criminal Justice Treatment Account.
- Prohibits police officers from arresting a person committing a misdemeanor or gross misdemeanor offense involving cannabis.
- Repeals the mandatory minimum penalties for misdemeanor violations under the Uniform Controlled Substances Act.

**Hearing Date:** 1/13/10

**Staff:** Yvonne Walker (786-7841).

**Background:**

Generally, it is illegal for a person to possess various controlled substances. Under the Uniform Controlled Substances Act, the degree of restriction exercised over a controlled substance is dependent on the potential for abuse and the degree of psychic or physical dependency which may be caused by the substance. Controlled substances are placed in five different schedules to reflect the amount of control necessary, with Schedule I being the most controlled, and Schedule

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V being the least restricted. The penalty for violations involving a controlled substance varies depending on the schedule on which the substance is placed.

Marijuana is a Schedule I controlled substance. The possession of 40 grams or less of marijuana is a misdemeanor offense. All other offenses relating to the possession, manufacturing, delivering or possessing with intent to deliver marijuana are considered seriousness level I, class C felony offenses. The maximum punishment for a class C felony offense is five years imprisonment, \$10,000 fine, or both.

It is a misdemeanor offense to use drug paraphernalia to plant, cultivate, grow, manufacture, conceal, ingest, inhale, or otherwise introduce into the human body a controlled substance.

A police officer who has probable cause to believe that a person has committed or is committing a misdemeanor or gross misdemeanor has the authority to arrest the person if the crime involves: (1) physical harm or threats of harm to any person or property; (2) the unlawful taking of property; (3) the use or possession of cannabis; (4) the acquisition, possession, or consumption of alcohol by a person under the age of 21; or (5) criminal trespass.

The punishment for a misdemeanor offense is a maximum of 90 days in jail, a fine of \$1,000, or both. In addition, all persons convicted of a misdemeanor violation under the Uniform Controlled Substances Act must receive a mandatory minimum punishment of no less than 24 hours in jail and a fine of no less than \$250. On a subsequent conviction the fine must be no less than \$500. The fines are in addition to any other fine or penalty imposed unless the court finds that the imprisonment will pose a substantial risk to the defendant's physical or mental well being or that local jail facilities are in an overcrowded condition. If such conditions exist the courts must sentence the person to a minimum of 40 hours of community restitution.

**Summary of Bill:**

It is a misdemeanor offense for a person under the age of 18 to possess 40 grams or less of marijuana. All other persons found guilty of possession of 40 grams or less of marijuana is guilty of a class 2 civil infraction and must pay a \$100 penalty.

It is a misdemeanor offense for a person under the age of 18 to unlawfully use drug paraphernalia. Any person over the age of 18 found to have unlawfully used drug paraphernalia with marijuana and where no other controlled substance was used is guilty of a class 2 civil infraction and must pay a \$100 penalty.

All monetary penalties collected for the class 2 civil infractions committed specified above must be deposited into the Criminal Justice Treatment Account to be used for substance abuse treatment and treatment support services.

Police officers do not have the authority to arrest a person who they have probable cause to believe is committing a misdemeanor or gross misdemeanor involving only the use or possession of cannabis.

The mandatory minimum penalties for misdemeanor violations under the Uniform Controlled Substances Act are repealed.

**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.