

By: Wu

H.B. No. 498

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the prosecution of and penalties for possession of one
3 ounce or less of marihuana.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Article 14.06(d), Code of Criminal Procedure, is
6 amended to read as follows:

7 (d) Subsection (c) applies only to a person charged with
8 committing an offense under:

9 (1) Section 481.121, Health and Safety Code, if the
10 offense is punishable under Subsection (b)(1-a) [~~(b)(1)~~] or (2) of
11 that section;

12 (1-a) Section 481.1161, Health and Safety Code, if the
13 offense is punishable under Subsection (b)(1) or (2) of that
14 section;

15 (2) Section 28.03, Penal Code, if the offense is
16 punishable under Subsection (b)(2) of that section;

17 (3) Section 28.08, Penal Code, if the offense is
18 punishable under Subsection (b)(2) or (3) of that section;

19 (4) Section 31.03, Penal Code, if the offense is
20 punishable under Subsection (e)(2)(A) of that section;

21 (5) Section 31.04, Penal Code, if the offense is
22 punishable under Subsection (e)(2) of that section;

23 (6) Section 38.114, Penal Code, if the offense is
24 punishable as a Class B misdemeanor; or

1 (7) Section 521.457, Transportation Code.

2 SECTION 2. Section 411.0728(a), Government Code, is amended
3 to read as follows:

4 (a) This section applies only to a person:

5 (1) who is convicted of or placed on deferred
6 adjudication community supervision for an offense under:

7 (A) Section 481.120, Health and Safety Code, if
8 the offense is punishable under Subsection (b)(1);

9 (B) Section 481.121, Health and Safety Code, if
10 the offense is punishable under Subsection (b)(1-a) [~~(b)(1)~~];

11 (C) Section 31.03, Penal Code, if the offense is
12 punishable under Subsection (e)(1) or (2); or

13 (D) Section 43.02, Penal Code; and

14 (2) who, if requested by the applicable law
15 enforcement agency or prosecuting attorney to provide assistance in
16 the investigation or prosecution of an offense under Section
17 20A.02, 20A.03, or 43.05, Penal Code, or a federal offense
18 containing elements that are substantially similar to the elements
19 of an offense under any of those sections:

20 (A) provided assistance in the investigation or
21 prosecution of the offense; or

22 (B) did not provide assistance in the
23 investigation or prosecution of the offense due to the person's age
24 or a physical or mental disability resulting from being a victim of
25 an offense described by this subdivision.

26 SECTION 3. Section 481.121(b), Health and Safety Code, is
27 amended to read as follows:

(b) An offense under Subsection (a) is:

(1) a Class C misdemeanor if the amount of marihuana possessed is one ounce or less;

(1-a) a Class B misdemeanor if the amount of marihuana possessed is two ounces or less but more than one ounce;

(2) a Class A misdemeanor if the amount of marihuana possessed is four ounces or less but more than two ounces;

(3) a state jail felony if the amount of marihuana possessed is five pounds or less but more than four ounces;

(4) a felony of the third degree if the amount of marihuana possessed is 50 pounds or less but more than 5 pounds;

(5) a felony of the second degree if the amount of marihuana possessed is 2,000 pounds or less but more than 50 pounds;

and

(6) punishable by imprisonment in the Texas Department of Criminal Justice for life or for a term of not more than 99 years or less than 5 years, and a fine not to exceed \$50,000, if the amount of marihuana possessed is more than 2,000 pounds.

SECTION 4. Section 481.134, Health and Safety Code, is amended by amending Subsections (f) and (g) and adding Subsection (f-1) to read as follows:

(f) An offense otherwise punishable under Section 481.118(b), 481.119(b), 481.120(b)(1), or 481.121(b)(1-a) [~~481.121(b)(1)~~] is a Class A misdemeanor if it is shown on the trial of the offense that the offense was committed:

(1) in, on, or within 1,000 feet of any real property that is owned, rented, or leased to a school or school board, the

1 premises of a public or private youth center, or a playground; or

2 (2) on a school bus.

3 (f-1) An offense otherwise punishable under Section
4 481.121(b)(1) is a Class B misdemeanor if it is shown on the trial
5 of the offense that the offense was committed:

6 (1) in, on, or within 1,000 feet of any real property
7 that is owned, rented, or leased to a school or school board, the
8 premises of a public or private youth center, or a playground; or

9 (2) on a school bus.

10 (g) Subsections (f) and (f-1) do [~~Subsection (f) does~~] not
11 apply to an offense if:

12 (1) the offense was committed inside a private
13 residence; and

14 (2) no minor was present in the private residence at
15 the time the offense was committed.

16 SECTION 5. Section 12.43(c), Penal Code, is amended to read
17 as follows:

18 (c) If it is shown on the trial of an offense punishable as a
19 Class C misdemeanor under Section 42.01 or 49.02, or under Section
20 481.121(b)(1), Health and Safety Code, that the defendant has
21 previously been convicted of any [~~been before convicted under~~
22 ~~either~~] of those offenses [~~sections~~] three times or three times for
23 any combination of those offenses and each prior offense was
24 committed in the 24 months preceding the date of commission of the
25 instant offense, the defendant shall be punished by:

26 (1) a fine not to exceed \$2,000;

27 (2) confinement in jail for a term not to exceed 180

1 days; or

2 (3) both such fine and confinement.

3 SECTION 6. The amendments of Sections [481.121](#) and [481.134](#),
4 Health and Safety Code, by this Act apply to an offense committed
5 under Section [481.121](#) or an offense committed under Section [481.121](#)
6 and punishable under Section [481.134](#), Health and Safety Code,
7 before, on, or after September 1, 2021, except that a final
8 conviction for an offense that exists on September 1, 2021, is
9 unaffected by this Act.

10 SECTION 7. This Act takes effect September 1, 2021.