

By: Cole

H.B. No. 585

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of and penalties for possession of marihuana.

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

SECTION 1. Section 481.121(b), Health and Safety Code, is amended to read as follows:

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

(1) a Class C [~~B~~] misdemeanor if the amount of marihuana possessed is two ounces or less;

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

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

(4) a state jail 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 third [~~second~~] degree if the amount of marihuana possessed is 2,000 pounds or less but more than 50 pounds; and

(6) a felony of the second degree [~~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

1 more than 2,000 pounds.

2 SECTION 2. Section 481.126(a), Health and Safety Code, is
3 amended to read as follows:

4 (a) A person commits an offense if the person:

5 (1) barter property or expends funds the person knows
6 are derived from the commission of an offense under this chapter
7 punishable by imprisonment in the Texas Department of Criminal
8 Justice for life;

9 (2) barter property or expends funds the person knows
10 are derived from the commission of an offense under Section
11 481.121(a) that is punishable under Section 481.121(b)(6)
12 [~~481.121(b)(5)~~];

13 (3) barter property or finances or invests funds the
14 person knows or believes are intended to further the commission of
15 an offense for which the punishment is described by Subdivision
16 (1); or

17 (4) barter property or finances or invests funds the
18 person knows or believes are intended to further the commission of
19 an offense under Section 481.121(a) that is punishable under
20 Section 481.121(b)(6) [~~481.121(b)(5)~~].

21 SECTION 3. Sections 481.134(c), (d), (e), and (f), Health
22 and Safety Code, are amended to read as follows:

23 (c) The minimum term of confinement or imprisonment for an
24 offense otherwise punishable under Section 481.112(c), (d), (e), or
25 (f), 481.1121(b)(2), (3), or (4), 481.113(c), (d), or (e),
26 481.114(c), (d), or (e), 481.115(c), (d), (e), or (f)
27 [~~481.115(c)-(f)~~], 481.1151(b)(2), (3), (4), or (5), 481.116(c),

1 (d), or (e), [481.1161\(b\)\(4\)](#), (5), or (6), [481.117\(c\)](#), (d), or (e),
2 [481.118\(c\)](#), (d), or (e), [481.120\(b\)\(4\)](#), (5), or (6), or
3 [481.121\(b\)\(5\) or \(6\)](#) [~~[481.121\(b\)\(4\)](#), (5), or (6)~~] is increased by
4 five years and the maximum fine for the offense is doubled if it is
5 shown on the trial of the offense that the offense was committed:

6 (1) in, on, or within 1,000 feet of the premises of a
7 school, the premises of a public or private youth center, or a
8 playground; or

9 (2) on a school bus.

10 (d) An offense otherwise punishable under Section
11 [481.112\(b\)](#), [481.1121\(b\)\(1\)](#), [481.113\(b\)](#), [481.114\(b\)](#), [481.115\(b\)](#),
12 [481.1151\(b\)\(1\)](#), [481.116\(b\)](#), [481.1161\(b\)\(3\)](#), [481.120\(b\)\(3\)](#), or
13 [481.121\(b\)\(4\)](#) [~~[481.121\(b\)\(3\)](#)~~] is a felony of the third degree if it
14 is shown on the trial of the offense that the offense was committed:

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

18 (2) on a school bus.

19 (e) An offense otherwise punishable under Section
20 [481.117\(b\)](#), [481.119\(a\)](#), [481.120\(b\)\(2\)](#), or [481.121\(b\)\(3\)](#)
21 [~~[481.121\(b\)\(2\)](#)~~] is a state jail felony if it is shown on the trial
22 of the offense that the offense was committed:

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

26 (2) on a school bus.

27 (f) An offense otherwise punishable under Section

1 481.118(b), 481.119(b), 481.120(b)(1), or 481.121(b)(2)
2 [~~481.121(b)(1)~~] is a Class A misdemeanor if it is shown on the trial
3 of the offense that the offense was committed:

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

8 SECTION 4. Article 14.06(d), Code of Criminal Procedure, is
9 amended to read as follows:

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

12 (1) Section 481.121, Health and Safety Code, if the
13 offense is punishable under Subsection (b)(2) or (3) [~~(b)(1) or~~
14 ~~(2)~~] of that section;

15 (1-a) Section 481.1161, Health and Safety Code, if the
16 offense is punishable under Subsection (b)(1) or (2) of that
17 section;

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

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

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

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

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

1 (7) Section 521.457, Transportation Code.

2 SECTION 5. Articles 42A.551(a) and (c), Code of Criminal
3 Procedure, are amended to read as follows:

4 (a) Except as otherwise provided by Subsection (b) or (c),
5 on conviction of a state jail felony under Section 481.115(b),
6 481.1151(b)(1), 481.116(b), 481.1161(b)(3), 481.121(b)(4)
7 [~~481.121(b)(3)~~], or 481.129(g)(1), Health and Safety Code, that is
8 punished under Section 12.35(a), Penal Code, the judge shall
9 suspend the imposition of the sentence and place the defendant on
10 community supervision.

11 (c) Subsection (a) does not apply to a defendant who:

12 (1) under Section 481.1151(b)(1), Health and Safety
13 Code, possessed more than five abuse units of the controlled
14 substance; or

15 (2) under Section 481.1161(b)(3), Health and Safety
16 Code, possessed more than one pound, by aggregate weight, including
17 adulterants or dilutants, of the controlled substance [~~or~~

18 [~~(3) under Section 481.121(b)(3), Health and Safety~~
19 ~~Code, possessed more than one pound of marijuana]~~.

20 SECTION 6. Section 411.0728(a), Government Code, is amended
21 to read as follows:

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

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

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

27 (B) Section 481.121, Health and Safety Code, if

1 the offense is punishable under Subsection (b)(2) [~~(b)(1)~~];

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

4 (D) Section 43.02, Penal Code; and

5 (2) who, if requested by the applicable law
6 enforcement agency or prosecuting attorney to provide assistance in
7 the investigation or prosecution of an offense under Section
8 20A.02, 20A.03, or 43.05, Penal Code, or a federal offense
9 containing elements that are substantially similar to the elements
10 of an offense under any of those sections:

11 (A) provided assistance in the investigation or
12 prosecution of the offense; or

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

17 SECTION 7. The change in law made by this Act applies only
18 to an offense committed on or after the effective date of this Act.
19 An offense committed before the effective date of this Act is
20 governed by the law in effect on the date the offense was committed,
21 and the former law is continued in effect for that purpose. For
22 purposes of this section, an offense was committed before the
23 effective date of this Act if any element of the offense was
24 committed before that date.

25 SECTION 8. This Act takes effect September 1, 2021.