

By: Thompson of Harris

H.B. No. 388

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the criminal penalty for the possession of a small
3 amount of marihuana.

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

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

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

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

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

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

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

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

18 and

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

23 SECTION 2. Section 481.134(f), Health and Safety Code, is
24 amended to read as follows:

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

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

8 (2) on a school bus; or

9 (3) by any unauthorized person 18 years of age or
10 older, in, on, or within 1,000 feet of premises owned, rented, or
11 leased by a general residential operation operating as a
12 residential treatment center.

13 SECTION 3. Article 14.06(d), Code of Criminal Procedure, is
14 amended to read as follows:

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

17 (1) Section 481.121, Health and Safety Code, if the
18 offense is punishable under Subsection (b)(2) [~~(b)(1) or (2)] of
19 that section;~~

20 (1-a) Section 481.1161, Health and Safety Code, if the
21 offense is punishable under Subsection (b)(1) or (2) of that
22 section;

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

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

27 (4) Section 31.03, Penal Code, if the offense is

1 punishable under Subsection (e)(2)(A) of that section;

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

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

6 (7) Section 521.457, Transportation Code.

7 SECTION 4. Section 411.0728(a), Government Code, is amended
8 to read as follows:

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

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

12 (A) Section 481.120, Health and Safety Code, if
13 the offense is punishable under Subsection (b)(1) of that section;

14 (B) [~~Section 481.121, Health and Safety Code, if~~
15 ~~the offense is punishable under Subsection (b)(1)~~];

16 [~~(C)~~] Section 31.03, Penal Code, if the offense is
17 punishable under Subsection (e)(1) or (2) of that section; or

18 (C) [~~(D)~~] Section 43.02, Penal Code; and

19 (2) who, if requested by the applicable law
20 enforcement agency or prosecuting attorney to provide assistance in
21 the investigation or prosecution of an offense under Section
22 20A.02, 20A.03, or 43.05, Penal Code, or a federal offense
23 containing elements that are substantially similar to the elements
24 of an offense under any of those sections:

25 (A) provided assistance in the investigation or
26 prosecution of the offense; or

27 (B) did not provide assistance in the

1 investigation or prosecution of the offense due to the person's age
2 or a physical or mental disability resulting from being a victim of
3 an offense described by this subdivision.

4 SECTION 5. The change in law made by this Act applies only
5 to an offense committed on or after the effective date of this Act.
6 An offense committed before the effective date of this Act is
7 governed by the law in effect on the date the offense was committed,
8 and the former law is continued in effect for that purpose. For
9 purposes of this section, an offense was committed before the
10 effective date of this Act if any element of the offense occurred
11 before that date.

12 SECTION 6. This Act takes effect September 1, 2023.