

By: Wu

H.B. No. 520

A BILL TO BE ENTITLED

AN ACT

relating to criminal penalties for possession offenses under the Texas Controlled Substances Act.

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

ARTICLE 1. POSSESSION OFFENSE PENALTIES

SECTION 1.01. Section 481.115(c), Health and Safety Code, is amended to read as follows:

(c) An offense under Subsection (a) is a felony of the third degree with a maximum term of imprisonment of five years if the amount of the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, one gram or more [~~but less than four grams~~].

SECTION 1.02. Section 481.1151(b), Health and Safety Code, is amended to read as follows:

(b) An offense under this section is:

(1) a state jail felony if the number of abuse units of the controlled substance is fewer than 20; and

(2) a felony of the third degree with a maximum term of imprisonment of five years if the number of abuse units of the controlled substance is 20 or more [~~but fewer than 80,~~

~~(3) a felony of the second degree if the number of abuse units of the controlled substance is 80 or more but fewer than 4,000,~~

~~(4) a felony of the first degree if the number of~~

1 ~~abuse units of the controlled substance is 4,000 or more but fewer~~
2 ~~than 8,000; and~~
3 ~~[(5) punishable by imprisonment in the Texas~~
4 ~~Department of Criminal Justice for life or for a term of not more~~
5 ~~than 99 years or less than 15 years and a fine not to exceed~~
6 ~~\$250,000, if the number of abuse units of the controlled substance~~
7 ~~is 8,000 or more].~~

8 SECTION 1.03. Section 481.116(c), Health and Safety Code,
9 is amended to read as follows:

10 (c) An offense under Subsection (a) is a felony of the third
11 degree with a maximum term of imprisonment of five years if the
12 amount of the controlled substance possessed is, by aggregate
13 weight, including adulterants or dilutants, one gram or more [~~but~~
14 ~~less than four grams~~].

15 SECTION 1.04. Section 481.1161(b), Health and Safety Code,
16 is amended to read as follows:

17 (b) An offense under this section is:

18 (1) a Class B misdemeanor if the amount of the
19 controlled substance possessed is, by aggregate weight, including
20 adulterants or dilutants, two ounces or less;

21 (2) a Class A misdemeanor if the amount of the
22 controlled substance possessed is, by aggregate weight, including
23 adulterants or dilutants, four ounces or less but more than two
24 ounces;

25 (3) a state jail felony if the amount of the controlled
26 substance possessed is, by aggregate weight, including adulterants
27 or dilutants, five pounds or less but more than four ounces; and

1 (4) a felony of the third degree with a maximum term of
2 imprisonment of five years if the amount of the controlled
3 substance possessed is, by aggregate weight, including adulterants
4 or dilutants, [~~50 pounds or less but~~] more than 5 pounds[+

5 ~~[(5) a felony of the second degree if the amount of the~~
6 ~~controlled substance possessed is, by aggregate weight, including~~
7 ~~adulterants or dilutants, 2,000 pounds or less but more than 50~~
8 ~~pounds; and~~

9 ~~[(6) punishable by imprisonment in the Texas~~
10 ~~Department of Criminal Justice for life or for a term of not more~~
11 ~~than 99 years or less than 5 years, and a fine not to exceed \$50,000,~~
12 ~~if the amount of the controlled substance possessed is, by~~
13 ~~aggregate weight, including adulterants or dilutants, more than~~
14 ~~2,000 pounds].~~

15 SECTION 1.05. Section 481.117(c), Health and Safety Code,
16 is amended to read as follows:

17 (c) An offense under Subsection (a) is a felony of the third
18 degree with a maximum term of imprisonment of five years if the
19 amount of the controlled substance possessed is, by aggregate
20 weight, including adulterants or dilutants, 28 grams or more [~~but~~
21 ~~less than 200 grams~~].

22 SECTION 1.06. Section 481.118(c), Health and Safety Code,
23 is amended to read as follows:

24 (c) An offense under Subsection (a) is a felony of the third
25 degree with a maximum term of imprisonment of five years if the
26 amount of the controlled substance possessed is, by aggregate
27 weight, including adulterants or dilutants, 28 grams or more [~~but~~

1 ~~less than 200 grams~~].

2 SECTION 1.07. Section 481.121(b), Health and Safety Code,
3 is amended to read as follows:

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

5 (1) a Class B misdemeanor if the amount of marihuana
6 possessed is two ounces or less;

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

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

11 (4) a felony of the third degree with a maximum term of
12 imprisonment of five years if the amount of marihuana possessed is
13 [~~50 pounds or less but~~] more than 5 pounds[~~+~~

14 [~~(5) a felony of the second degree if the amount of~~
15 ~~marihuana possessed is 2,000 pounds or less but more than 50 pounds,~~
16 ~~and~~

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

21 SECTION 1.08. Section 481.134(c), Health and Safety Code,
22 as amended by Chapters 584 (S.B. 768) and 807 (H.B. 1540), Acts of
23 the 87th Legislature, Regular Session, 2021, is reenacted and
24 amended to read as follows:

25 (c) The minimum term of confinement or imprisonment for an
26 offense otherwise punishable under Section 481.112(c), (d), (e), or
27 (f), 481.1121(b)(2), (3), or (4), 481.1123(c), (d), (e), or (f),

1 481.113(c), (d), or (e), 481.114(c), (d), or (e), or
2 [~~481.115(c)-(f), 481.1151(b)(2), (3), (4), or (5), 481.116(c),~~
3 ~~(d), or (e), 481.1161(b)(4), (5), or (6), 481.117(c), (d), or (e),~~
4 ~~481.118(c), (d), or (e),~~] 481.120(b)(4), (5), or (6) [~~or~~
5 ~~481.121(b)(4), (5), or (6)~~] is increased by five years and the
6 maximum fine for the offense is doubled if it is shown on the trial
7 of the offense that the offense was committed:

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

11 (2) on a school bus; or

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

16 SECTION 1.09. Sections 481.134(d), (e), and (f), Health and
17 Safety Code, are amended to read as follows:

18 (d) An offense otherwise punishable under Section
19 481.112(b), 481.1121(b)(1), 481.113(b), 481.114(b), or
20 [~~481.115(b), 481.1151(b)(1), 481.116(b), 481.1161(b)(3),~~
21 ~~481.120(b)(3) [or 481.121(b)(3)]~~] is a felony of the third degree
22 if it is shown on the trial of the offense that the offense was
23 committed:

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

27 (2) on a school bus; or

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

5 (e) An offense otherwise punishable under Section
6 [~~481.117(b)~~] 481.119(a) or [~~7~~] 481.120(b)(2) [~~7 or 481.121(b)(2)~~]
7 is a state jail felony if it is shown on the trial of the offense
8 that the offense was committed:

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

12 (2) on a school bus; or

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

17 (f) An offense otherwise punishable under Section
18 [~~481.118(b), 481.119(b)~~] 481.120(b)(1) [~~7 or 481.121(b)(1)~~] is a
19 Class A misdemeanor if it is shown on the trial of the offense that
20 the offense was committed:

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

24 (2) on a school bus; or

25 (3) by any unauthorized person 18 years of age or
26 older, in, on, or within 1,000 feet of premises owned, rented, or
27 leased by a general residential operation operating as a

1 residential treatment center.

2 SECTION 1.10. The following provisions of the Health and
3 Safety Code are repealed:

- 4 (1) Sections 481.115(d), (e), and (f);
- 5 (2) Sections 481.116(d) and (e);
- 6 (3) Sections 481.117(d) and (e); and
- 7 (4) Sections 481.118(d) and (e).

8 ARTICLE 2. PRIOR CONVICTIONS

9 SECTION 2.01. Subchapter D, Chapter 12, Penal Code, is
10 amended by adding Section 12.495 to read as follows:

11 Sec. 12.495. DRUG POSSESSION OFFENSES NOT SUBJECT TO
12 ENHANCEMENT. Notwithstanding any other provision of this
13 subchapter:

14 (1) a previous conviction for an offense under Section
15 481.115, 481.1151, 481.116, 481.1161, 481.117, 481.118,
16 481.119(b), 481.121, or 481.125(a), Health and Safety Code, may not
17 be used for enhancement purposes under this subchapter; and

18 (2) a previous conviction for any offense may not be
19 used for enhancing an offense under Section 481.115, 481.1151,
20 481.116, 481.1161, 481.117, 481.118, 481.119(b), 481.121, or
21 481.125(a), Health and Safety Code, under any provision of this
22 subchapter.

23 ARTICLE 3. CONFORMING CHANGES

24 SECTION 3.01. Section 481.126, Health and Safety Code, is
25 amended to read as follows:

26 Sec. 481.126. OFFENSE: ILLEGAL BARTER, EXPENDITURE, OR
27 INVESTMENT. (a) A person commits an offense if the person:

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

5 (2) [~~barter property or expends funds the person~~
6 ~~knows are derived from the commission of an offense under Section~~
7 ~~481.121(a) that is punishable under Section 481.121(b)(5);~~]

8 [~~(3)~~] barter property or finances or invests funds
9 the person knows or believes are intended to further the commission
10 of an offense for which the punishment is described by Subdivision
11 (1) [~~or~~

12 [~~(4) barter property or finances or invests funds the~~
13 ~~person knows or believes are intended to further the commission of~~
14 ~~an offense under Section 481.121(a) that is punishable under~~
15 ~~Section 481.121(b)(5)].~~

16 (b) An offense under this section [~~Subsection (a)(1) or (3)~~]
17 is a felony of the first degree. [~~An offense under Subsection~~
18 ~~(a)(2) or (4) is a felony of the second degree.]~~

19 SECTION 3.02. Section 71.023(a), Penal Code, is amended to
20 read as follows:

21 (a) A person commits an offense if the person, as part of the
22 identifiable leadership of a criminal street gang, knowingly
23 finances, directs, or supervises the commission of, or a conspiracy
24 to commit, one or more of the following offenses by members of a
25 criminal street gang:

26 (1) a felony offense that is listed in Article
27 42A.054(a), Code of Criminal Procedure;

1 (2) a felony offense for which it is shown that a
2 deadly weapon, as defined by Section 1.07, was used or exhibited
3 during the commission of the offense or during immediate flight
4 from the commission of the offense; or

5 (3) an offense that is punishable under Section
6 481.112(e) or (f), 481.1121(b)(4), 481.1123(d), (e), or (f),
7 [~~481.115(f)~~], or 481.120(b)(6), Health and Safety Code.

8 ARTICLE 4. TRANSITION; EFFECTIVE DATE

9 SECTION 4.01. The changes in law made by this Act apply to
10 an offense committed before, on, or after September 1, 2023, except
11 that a final conviction for an offense that exists on September 1,
12 2023, is unaffected by this Act.

13 SECTION 4.02. To the extent of any conflict, this Act
14 prevails over another Act of the 88th Legislature, Regular Session,
15 2023, relating to nonsubstantive additions to and corrections in
16 enacted codes.

17 SECTION 4.03. This Act takes effect September 1, 2023.