

By: Keffer of Eastland, et al.

H.B. No. 1629

A BILL TO BE ENTITLED

1 AN ACT

2 relating to certain reports, records, offenses, and penalties under
3 the Texas Controlled Substances Act.

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

5 SECTION 1. Section 481.077(1), Health and Safety Code, is
6 amended to read as follows:

7 (1) This section does not apply to the sale or transfer of a
8 nonnarcotic product that:

9 (1) includes:

10 (A) ephedrine;

11 (B) pseudoephedrine;

12 (C) norpseudoephedrine; or

13 (D) phenylpropanolamine; and

14 (2) is sold with a prescription or over the counter in
15 accordance with a federal statute or rule [~~a chemical precursor~~
16 ~~subject to Subsection (a) if the sale or transfer complies with~~
17 ~~federal law and involves a product that may be sold lawfully with a~~
18 ~~prescription or over the counter without a prescription under the~~
19 ~~Federal Food, Drug, and Cosmetic Act (21 U.S.C. Section 301 et seq.)~~
20 ~~or a rule adopted under that Act].~~

21 SECTION 2. Section 481.124, Health and Safety Code, is
22 amended by amending Subsection (a) and adding Subsection (f) to
23 read as follows:

24 (a) A person commits an offense if, with intent to

1 unlawfully manufacture a controlled substance, the person
2 possesses or transports:

- 3 (1) anhydrous ammonia;
4 (2) an immediate precursor; or
5 (3) a chemical precursor or an additional chemical
6 substance named as a precursor by the director [~~subject to~~
7 ~~regulation~~] under Section 481.077(b)(1) [~~481.077~~].

8 (f) This section does not apply to a chemical precursor
9 exempted by the director under Section 481.077(b)(2) from the
10 requirements of that section.

11 SECTION 3. Sections 481.134(b)-(f), Health and Safety Code,
12 are amended to read as follows:

13 (b) An offense otherwise punishable as a state jail felony
14 under Section 481.112, 481.113, 481.114, or 481.120 is punishable
15 as a felony of the third degree, and an offense otherwise punishable
16 as a felony of the second degree under any of those sections is
17 punishable as a felony of the first degree, if it is shown at the
18 punishment phase of the trial of the offense that the offense was
19 committed:

20 (1) in, on, or within 1,000 feet of premises owned,
21 rented, or leased by an institution of higher learning, the
22 premises of a public or private youth center, or a playground; or

23 (2) in, on, or within 300 feet of the premises of a
24 [~~public or private youth center,~~] public swimming pool[~~7~~] or video
25 arcade facility.

26 (c) The minimum term of confinement or imprisonment for an
27 offense otherwise punishable under Section 481.112(c), (d), (e), or

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

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

9 (2) on a school bus.

10 (d) An offense otherwise punishable under Section
11 481.112(b), 481.113(b), 481.114(b), 481.115(b), 481.116(b),
12 481.120(b)(3), or 481.121(b)(3) is a felony of the third degree if
13 it is shown on the trial of the offense that the offense was
14 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 or the
17 premises of a public or private youth center; 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)(2) is a state
21 jail felony if it is shown on the trial of the offense that the
22 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 or the
25 premises of a public or private youth center; 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)(1) is a Class
2 A misdemeanor if it is shown on the trial of the offense that the
3 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 or the
6 premises of a public or private youth center; or

7 (2) on a school bus.

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

15 SECTION 5. This Act takes effect September 1, 2003.