

1-1 By: Keffer of Eastland, et al. H.B. No. 1629
1-2 (Senate Sponsor - Deuell)
1-3 (In the Senate - Received from the House May 12, 2003;
1-4 May 13, 2003, read first time and referred to Committee on Criminal
1-5 Justice; May 23, 2003, reported favorably by the following vote:
1-6 Yeas 4, Nays 0; May 23, 2003, sent to printer.)

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to certain reports, records, offenses, and penalties under
1-10 the Texas Controlled Substances Act.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 481.077(1), Health and Safety Code, is
1-13 amended to read as follows:

1-14 (1) This section does not apply to the sale or transfer of a
1-15 nonnarcotic product that:

1-16 (1) includes:

1-17 (A) ephedrine;

1-18 (B) pseudoephedrine;

1-19 (C) norpseudoephedrine; or

1-20 (D) phenylpropanolamine; and

1-21 (2) is sold with a prescription or over the counter in
1-22 accordance with a federal statute or rule [a chemical precursor
1-23 subject to Subsection (a) if the sale or transfer complies with
1-24 federal law and involves a product that may be sold lawfully with a
1-25 prescription or over the counter without a prescription under the
1-26 Federal Food, Drug, and Cosmetic Act (21 U.S.C. Section 301 et seq.)
1-27 or a rule adopted under that Act].

1-28 SECTION 2. Section 481.124, Health and Safety Code, is
1-29 amended by amending Subsection (a) and adding Subsection (f) to
1-30 read as follows:

1-31 (a) A person commits an offense if, with intent to
1-32 unlawfully manufacture a controlled substance, the person
1-33 possesses or transports:

1-34 (1) anhydrous ammonia;

1-35 (2) an immediate precursor; or

1-36 (3) a chemical precursor or an additional chemical
1-37 substance named as a precursor by the director [subject to
1-38 regulation] under Section 481.077(b)(1) [481.077].

1-39 (f) This section does not apply to a chemical precursor
1-40 exempted by the director under Section 481.077(b)(2) from the
1-41 requirements of that section.

1-42 SECTION 3. Sections 481.134(b)-(f), Health and Safety Code,
1-43 are amended to read as follows:

1-44 (b) An offense otherwise punishable as a state jail felony
1-45 under Section 481.112, 481.113, 481.114, or 481.120 is punishable
1-46 as a felony of the third degree, and an offense otherwise punishable
1-47 as a felony of the second degree under any of those sections is
1-48 punishable as a felony of the first degree, if it is shown at the
1-49 punishment phase of the trial of the offense that the offense was
1-50 committed:

1-51 (1) in, on, or within 1,000 feet of premises owned,
1-52 rented, or leased by an institution of higher learning, the
1-53 premises of a public or private youth center, or a playground; or

1-54 (2) in, on, or within 300 feet of the premises of a
1-55 [public or private youth center,] public swimming pool[7] or video
1-56 arcade facility.

1-57 (c) The minimum term of confinement or imprisonment for an
1-58 offense otherwise punishable under Section 481.112(c), (d), (e), or
1-59 (f), 481.113(c), (d), or (e), 481.114(c), (d), or (e),
1-60 481.115(c)-(f), 481.116(c), (d), or (e), 481.117(c), (d), or (e),
1-61 481.118(c), (d), or (e), 481.120(b)(4), (5), or (6), or
1-62 481.121(b)(4), (5), or (6) is increased by five years and the
1-63 maximum fine for the offense is doubled if it is shown on the trial
1-64 of the offense that the offense was committed:

2-1 (1) in, on, or within 1,000 feet of premises of a
2-2 school or a public or private youth center; or

2-3 (2) on a school bus.

2-4 (d) An offense otherwise punishable under Section
2-5 481.112(b), 481.113(b), 481.114(b), 481.115(b), 481.116(b),
2-6 481.120(b)(3), or 481.121(b)(3) is a felony of the third degree if
2-7 it is shown on the trial of the offense that the offense was
2-8 committed:

2-9 (1) in, on, or within 1,000 feet of any real property
2-10 that is owned, rented, or leased to a school or school board or the
2-11 premises of a public or private youth center; or

2-12 (2) on a school bus.

2-13 (e) An offense otherwise punishable under Section
2-14 481.117(b), 481.119(a), 481.120(b)(2), or 481.121(b)(2) is a state
2-15 jail felony if it is shown on the trial of the offense that the
2-16 offense was committed:

2-17 (1) in, on, or within 1,000 feet of any real property
2-18 that is owned, rented, or leased to a school or school board or the
2-19 premises of a public or private youth center; or

2-20 (2) on a school bus.

2-21 (f) An offense otherwise punishable under Section
2-22 481.118(b), 481.119(b), 481.120(b)(1), or 481.121(b)(1) is a Class
2-23 A misdemeanor if it is shown on the trial of the offense that the
2-24 offense was committed:

2-25 (1) in, on, or within 1,000 feet of any real property
2-26 that is owned, rented, or leased to a school or school board or the
2-27 premises of a public or private youth center; or

2-28 (2) on a school bus.

2-29 SECTION 4. The change in law made by this Act applies only
2-30 to an offense committed on or after the effective date of this Act.
2-31 An offense committed before the effective date of this Act is
2-32 covered by the law in effect when the offense was committed, and the
2-33 former law is continued in effect for that purpose. For purposes of
2-34 this section, an offense was committed before the effective date of
2-35 this Act if any element of the offense occurred before that date.

2-36 SECTION 5. This Act takes effect September 1, 2003.

2-37 * * * * *