

By: Dutton

H.B. No. 2316

A BILL TO BE ENTITLED

AN ACT

relating to sentences for certain nonviolent offenders.

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

SECTION 1. Article 28.08, Title 7, Penal Code, is amended by amending subsections (b) and (d) as follows:

(b) Except as provided by Subsection (d), an offense under this section is:

(1) a Class B misdemeanor if the amount of pecuniary loss is less than \$500;

(2) a Class A misdemeanor if the amount of pecuniary loss is \$500 or more; ~~[but less than \$1,500;~~

~~[(3) a state jail felony if the amount of pecuniary loss is \$1,500 or more but less than \$20,000;~~

~~[(4) a felony of the third degree if the amount of pecuniary loss is \$20,000 or more but less than \$100,000;~~

~~[(5) a felony of the second degree if the amount of pecuniary loss is \$100,000 or more but less than \$200,000; or~~

~~[(6) a felony of the first degree if the amount of pecuniary loss is \$200,000 or more.~~

~~[(d) An offense under this section is a state jail felony if:~~

~~[(1) the marking is made on a school, an institution of higher education, a place of worship or human burial, a public monument, or a community center that provides medical, social, or~~

1 ~~educational programs; and~~

2 ~~[(2) the amount of the pecuniary loss to real property~~
3 ~~or to tangible personal property is less than \$20,000.]~~

4 SECTION 2. Article 31.03, Title 7, Penal Code is amended by
5 amending subsection (e) as follows:

6 (e) Except as provided by Subsection (f), an offense under
7 this section is:

8 (1) a Class C misdemeanor if the value of the property
9 stolen is less than:

10 (A) \$50; or

11 (B) \$20 and the defendant obtained the property
12 by issuing or passing a check or similar sight order in a manner
13 described by Section 31.06;

14 (2) a Class B misdemeanor if:

15 (A) the value of the property stolen is:

16 (i) \$50 or more but less than \$500; or

17 (ii) \$20 or more but less than \$500 and the
18 defendant obtained the property by issuing or passing a check or
19 similar sight order in a manner described by Section 31.06; or

20 (B) the value of the property stolen is less
21 than:

22 (i) \$50 and the defendant has previously
23 been convicted of any grade of theft; or

24 (ii) \$20, the defendant has previously been
25 convicted of any grade of theft, and the defendant obtained the
26 property by issuing or passing a check or similar sight order in a
27 manner described by Section 31.06;

1 (3) a Class A misdemeanor if the value of the property
2 stolen is \$500 or more but less than \$1,500;

3 (4) a state jail felony if:

4 (A) the value of the property stolen is \$1,500 or
5 more but less than \$20,000, or the property is less than 10 head of
6 cattle, horses, or exotic livestock or exotic fowl as defined by
7 Section 142.001, Agriculture Code, or any part thereof under the
8 value of \$20,000, or less than 100 head of sheep, swine, or goats or
9 any part thereof under the value of \$20,000;

10 (B) regardless of value, the property is stolen
11 from the person of another or from a human corpse or grave;

12 (C) the property stolen is a firearm, as defined
13 by Section 46.01; ~~or~~

14 ~~[(D) the value of the property stolen is less
15 than \$1,500 and the defendant has been previously convicted two or
16 more times of any grade of theft;]~~

17 (5) a felony of the third degree if the value of the
18 property stolen is \$20,000 or more but less than \$100,000, or the
19 property is:

20 (A) 10 or more head of cattle, horses, or exotic
21 livestock or exotic fowl as defined by Section 142.001, Agriculture
22 Code, stolen during a single transaction and having an aggregate
23 value of less than \$100,000; or

24 (B) 100 or more head of sheep, swine, or goats
25 stolen during a single transaction and having an aggregate value of
26 less than \$100,000;

27 (6) a felony of the second degree if the value of the

1 property stolen is \$100,000 or more but less than \$200,000; or

2 (7) a felony of the first degree if the value of the
3 property stolen is \$200,000 or more.

4 SECTION 3. Article 33A.04, Title 7, Penal Code is amended by
5 amending subsection (b) as follows:

6 (b) An offense under this section is:

7 (1) a Class C misdemeanor if the value of the
8 telecommunications service used or diverted is less than \$100;

9 (2) [(1)] a Class B misdemeanor if the value of the
10 telecommunications service used or diverted is \$100 or more but
11 less than \$500;

12 (3) [(2)] a Class A misdemeanor if:

13 (A) the value of the telecommunications service
14 obtained or attempted to be obtained is \$500 or more but less than
15 \$1,500; or

16 (B) [~~the value of the telecommunications service~~
17 ~~obtained or attempted to be obtained is less than \$500 and]~~ the
18 defendant has been previously convicted two or more times of an
19 offense under this chapter;

20 (4) [(3)] a state jail felony if[+

21 [(A)] the value of the telecommunications
22 service obtained or attempted to be obtained is \$1,500 or more but
23 less than \$20,000; [or

24 [(B) ~~the value of the telecommunications service~~
25 ~~obtained or attempted to be obtained is less than \$1,500 and the~~
26 ~~defendant has been previously convicted two or more times of an~~
27 ~~offense under this chapter,~~]

1 (5) [~~(4)~~] a felony of the third degree if the value of
2 the telecommunications service obtained or attempted to be obtained
3 is \$20,000 or more but less than \$100,000;

4 (6) [~~(5)~~] a felony of the second degree if the value of
5 the telecommunications service obtained or attempted to be obtained
6 is \$100,000 or more but less than \$200,000; or

7 (7) [~~(6)~~] a felony of the first degree if the value of
8 the telecommunications service obtained or attempted to be obtained
9 is \$200,000 or more.

10 SECTION 4. Article 38.10, Title 8, Penal Code is amended by
11 amending subsection (f) as follows:

12 (f) An offense under this section is a state jail felony [~~of~~
13 ~~the third degree~~] if the offense for which the actor's appearance
14 was required is classified as a felony.

15 SECTION 5. Article 43.02, Title 9, Penal Code is amended by
16 amending subsection (c) as follows:

17 (c) An offense under this section is a Class B misdemeanor,
18 unless the actor has previously been convicted [~~one or two~~] three or
19 more times of an offense under this section, in which event it is a
20 Class A misdemeanor. [~~If the actor has previously been convicted~~
21 ~~three or more times of an offense under this section, the offense is~~
22 ~~a state jail felony~~].

23 SECTION 6. Article 481.112, Title 6, Health and Safety Code
24 is amended by amending subsections (b), (c) and (d) and adding new
25 subsection (e) as follows:

26 (b) An offense under Subsection (a) is a Class A misdemeanor
27 [~~state jail felony~~] if the amount of the controlled substance to

1 which the offense applies is, by aggregate weight, including
2 adulterants or dilutants, less than one gram.

3 (c) An offense under Subsection (a) is a felony of the third
4 [~~second~~] degree if the amount of the controlled substance to which
5 the offense applies is, by aggregate weight, including adulterants
6 or dilutants, one gram or more but less than four grams.

7 (d) An offense under Subsection (a) is a felony of the
8 second [~~first~~] degree if the amount of the controlled substance to
9 which the offense applies is, by aggregate weight, including
10 adulterants or dilutants, four grams or more but less than 28 [~~200~~]
11 grams.

12 (e) An offense under Subsection (a) is a felony of the first
13 degree if the amount of the controlled substance to which the
14 offense applies is, by aggregate weight, including adulterants or
15 dilutants, 28 grams or more but less than 200 grams.

16 SECTION 7. Article 481.113, Title 6, Health and Safety Code
17 is amended by amending subsections (b), (c) and (d) and adding new
18 subsection (e) as follows:

19 (b) An offense under Subsection (a) is a Class A Misdemeanor
20 [~~state jail felony~~] if the amount of the controlled substance to
21 which the offense applies is, by aggregate weight, including
22 adulterants or dilutants, less than one gram.

23 (c) An offense under Subsection (a) is a felony of the third
24 [~~second~~] degree if the amount of the controlled substance to which
25 the offense applies is, by aggregate weight, including adulterants
26 or dilutants, one gram or more but less than four grams.

27 (d) An offense under Subsection (a) is a felony of the

1 second [~~first~~] degree if the amount of the controlled substance to
2 which the offense applies is, by aggregate weight, including
3 adulterants or dilutants, four grams or more but less than 28 [~~400~~]
4 grams.

5 (e) An offense under Subsection (a) is a felony of the first
6 degree if the amount of the controlled substance to which the
7 offense applies is, by aggregate weight, including adulterants or
8 dilutants, 28 grams or more but less than 400 grams.

9 SECTION 8. Article 481.115, Title 6, Health and Safety Code
10 is amended by amending subsections (b), (c) and (d) and adding new
11 subsection (e) as follows:

12 (b) An offense under Subsection (a) is a Class A Misdemeanor
13 [~~state jail felony~~] if the amount of the controlled substance
14 possessed is, by aggregate weight, including adulterants or
15 dilutants, less than one gram.

16 (c) An offense under Subsection (a) is a state jail felony
17 [~~of the third degree~~] if the amount of the controlled substance
18 possessed is, by aggregate weight, including adulterants or
19 dilutants, one gram or more but less than four grams.

20 (d) An offense under Subsection (a) is a felony of the third
21 [~~second~~] degree if the amount of the controlled substance possessed
22 is, by aggregate weight, including adulterants or dilutants, four
23 grams or more but less than 28 [~~200~~] grams.

24 (e) An offense under Subsection (a) is a felony of the first
25 degree if the amount of the controlled substance to which the
26 offense applies is, by aggregate weight, including adulterants or
27 dilutants, 28 grams or more but less than 400 grams.

1 SECTION 9. Article 481.116, Title 6, Health and Safety Code
2 is amended by amending subsections (b), (c) and (d) and adding new
3 subsection (e) as follows:

4 (b) An offense under Subsection (a) is a Class A Misdemeanor
5 [~~state jail felony~~] if the amount of the controlled substance
6 possessed is, by aggregate weight, including adulterants or
7 dilutants, less than one gram.

8 (c) An offense under Subsection (a) is a state jail felony
9 [~~of the third degree~~] if the amount of the controlled substance
10 possessed is, by aggregate weight, including adulterants or
11 dilutants, one gram or more but less than four grams.

12 (d) An offense under Subsection (a) is a felony of the third
13 [~~second~~] degree if the amount of the controlled substance possessed
14 is, by aggregate weight, including adulterants or dilutants, four
15 grams or more but less than 28 [~~400~~] grams.

16 (e) An offense under Subsection (a) is a felony of the first
17 degree if the amount of the controlled substance to which the
18 offense applies is, by aggregate weight, including adulterants or
19 dilutants, 28 grams or more but less than 400 grams.

20 SECTION 10. Article 481.120, Title 6, Health and Safety
21 Code is amended by amending subsection (b) as follows:

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

23 (1) a Class B misdemeanor if the amount of marihuana
24 delivered is one [~~one-fourth~~] ounce or less; [~~and the person~~
25 ~~committing the offense does not receive remuneration for the~~
26 ~~marihuana,~~]

27 (2) a Class A misdemeanor if the amount of marihuana

1 delivered is more than one ounce but less than three ounces [~~a Class~~
2 ~~A misdemeanor if the amount of marihuana delivered is one-fourth~~
3 ~~ounce or less and the person committing the offense receives~~
4 ~~remuneration for the marihuana~~];

5 (3) a state jail felony if the amount of marihuana
6 delivered is five pounds or less but more than three ounces
7 [~~one-fourth ounce~~];

8 (4) a felony of the second degree if the amount of
9 marihuana delivered is 50 pounds or less but more than five pounds;

10 (5) a felony of the first degree if the amount of
11 marihuana delivered is 2,000 pounds or less but more than 50 pounds;
12 and

13 (6) punishable by imprisonment in the institutional
14 division of the Texas Department of Criminal Justice for life or for
15 a term of not more than 99 years or less than 10 years, and a fine
16 not to exceed \$100,000, if the amount of marihuana delivered is more
17 than 2,000 pounds.

18 SECTION 11. Article 481.121, Title 6, Health and Safety
19 Code is amended by amending subsection (b) as follows:

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

21 (1) a Class C misdemeanor if the amount of marihuana
22 possessed is one ounce or less;

23 (2) [(1)] a Class B misdemeanor if the amount of
24 marihuana possessed is [two] four ounces or less but more than one
25 ounce;

26 (3) [(2)] a Class A misdemeanor if the amount of
27 marihuana possessed is eight [four] ounces or less but more than

1 four [~~two~~] ounces;

2 (4) [~~(3)~~] a state jail felony if the amount of
3 marihuana possessed is five pounds or less but more than eight
4 [~~four~~] ounces;

5 (5) [~~(4)~~] a felony of the third degree if the amount of
6 marihuana possessed is 50 pounds or less but more than 5 pounds;

7 (6) [~~(5)~~] a felony of the second degree if the amount
8 of marihuana possessed is 2,000 pounds or less but more than 50
9 pounds; and

10 (7) [~~(6)~~] punishable by imprisonment in the
11 institutional division of the Texas Department of Criminal Justice
12 for life or for a term of not more than 99 years or less than 5
13 years, and a fine not to exceed \$50,000, if the amount of marihuana
14 possessed is more than 2,000 pounds.

15 SECTION 12. Article 481.125, Title 6, Health and Safety
16 Code, is amended by amending subsections (e) and (f) as follows:

17 (e) An offense under Subsection (b) is a Class B [~~A~~]
18 misdemeanor, [~~unless it is shown on the trial of a defendant that~~
19 ~~the defendant has previously been convicted under Subsection (b) or~~
20 ~~(c), in which event the offense is punishable by confinement in jail~~
21 ~~for a term of not more than one year or less than 90 days.]~~

22 (f) An offense under Subsection (c) is a Class A misdemeanor
23 [~~state jail felony~~].

24 SECTION 13. EFFECTIVE DATE. This Act takes effect
25 immediately if it receives a vote of two-thirds of all the members
26 elected to each house, as provided by Section 39, Article III, Texas
27 Constitution. If this Act does not receive the vote necessary for

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1 immediate effect, this Act takes effect September 1, 2003.