

BILL ANALYSIS

C.S.H.B. 254
By: Dutton
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current Texas law provides for graduated penalties for possession of varying amounts of marihuana. For example, possession of two ounces or less is punishable as a Class B misdemeanor and possession of four ounces or less but more than two ounces is a Class A misdemeanor. Presently, there is no difference in the punishment for possession of a marihuana seed and the possession of one, two or three joints of marihuana.

CSHB 254 continues the trend of graduated punishment for possession of differing amounts of marihuana by making possession of one ounce or less a Class C misdemeanor. Additionally CSHB 254 requires that a defendant successfully complete a drug abuse awareness and education program approved by the Department of State Health Services.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

CSHB 254 amends the Health and Safety Code to provide that an offense is a Class C misdemeanor if the amount of marihuana possessed is one ounce or less. If the amount of marihuana possessed is two ounces or less but more than one ounce, it is a Class B misdemeanor. If the defendant has been convicted under this section more than three times within a 24 month period, the defendant shall be punished under the offense of a Class B misdemeanor and shall receive a fine not more than \$2,000 and confinement in jail of not more than 6 months. CSHB 254 also provides that a person, granted a deferral shall be required to successfully complete a drug abuse awareness and education program.

Finally, this bill authorizes a justice, municipal, county, or district court to grant an occupational license for the operation of a motor vehicle.

EFFECTIVE DATE

September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

CSHB 254 modifies the original HB 254 by deleting changes to Section 521.372(a), and by providing that if the defendant has been convicted under this section more than three times within a 24 month period, the defendant shall be punished under the offense of a Class B misdemeanor and shall receive a fine not more than \$2,000 and confinement in jail of not more than 6 months. CSHB 254 also provides that a person, granted a deferral shall be required to successfully complete a drug abuse awareness and education program. Additionally, CSHB 254 authorizes a justice, municipal or district court to grant an occupational license for the operation of a motor vehicle.