

By: Estes

S.B. No. 1796

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of the sale of salvia divinorum;
providing a criminal penalty.

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

SECTION 1. Chapter 161, Health and Safety Code, is amended
by adding Subchapter I to read as follows:

SUBCHAPTER I. SALE OF SALVIA DIVINORUM

Sec. 161.091. SALE OF SALVIA DIVINORUM TO PERSONS YOUNGER
THAN 18 YEARS OF AGE PROHIBITED; PROOF OF AGE REQUIRED. (a) A
person commits an offense if the person, with criminal negligence:

(1) sells, gives, or causes to be sold or given salvia
divinorum to someone who is younger than 18 years of age; or

(2) sells, gives, or causes to be sold or given salvia
divinorum to another person who intends to deliver it to someone who
is younger than 18 years of age.

(b) If an offense under this section occurs in connection
with a sale by an employee of the owner of a store in which salvia
divinorum is sold at retail, the employee is criminally responsible
for the offense and is subject to prosecution.

(c) An offense under this section is a Class C misdemeanor.

(d) It is a defense to prosecution under Subsection (a)(1)
that the person to whom the salvia divinorum was sold or given
presented to the defendant apparently valid proof of
identification.

1 (e) A proof of identification satisfies the requirements of
2 Subsection (d) if it contains a physical description and photograph
3 consistent with the person's appearance, purports to establish that
4 the person is 18 years of age or older, and was issued by a
5 governmental agency. The proof of identification may include a
6 driver's license issued by this state or another state, a passport,
7 or an identification card issued by a state or the federal
8 government.

9 SECTION 2. This Act takes effect September 1, 2007.