

1-1 By: Estes S.B. No. 1796
1-2 (In the Senate - Filed March 9, 2007; March 21, 2007, read
1-3 first time and referred to Committee on Criminal Justice;
1-4 April 18, 2007, reported favorably by the following vote: Yeas 6,
1-5 Nays 0; April 18, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the regulation of the sale of salvia divinorum;
1-9 providing a criminal penalty.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Chapter 161, Health and Safety Code, is amended
1-12 by adding Subchapter I to read as follows:

1-13 SUBCHAPTER I. SALE OF SALVIA DIVINORUM

1-14 Sec. 161.091. SALE OF SALVIA DIVINORUM TO PERSONS YOUNGER
1-15 THAN 18 YEARS OF AGE PROHIBITED; PROOF OF AGE REQUIRED. (a) A
1-16 person commits an offense if the person, with criminal negligence:

1-17 (1) sells, gives, or causes to be sold or given salvia
1-18 divinorum to someone who is younger than 18 years of age; or

1-19 (2) sells, gives, or causes to be sold or given salvia
1-20 divinorum to another person who intends to deliver it to someone who
1-21 is younger than 18 years of age.

1-22 (b) If an offense under this section occurs in connection
1-23 with a sale by an employee of the owner of a store in which salvia
1-24 divinorum is sold at retail, the employee is criminally responsible
1-25 for the offense and is subject to prosecution.

1-26 (c) An offense under this section is a Class C misdemeanor.

1-27 (d) It is a defense to prosecution under Subsection (a)(1)
1-28 that the person to whom the salvia divinorum was sold or given
1-29 presented to the defendant apparently valid proof of
1-30 identification.

1-31 (e) A proof of identification satisfies the requirements of
1-32 Subsection (d) if it contains a physical description and photograph
1-33 consistent with the person's appearance, purports to establish that
1-34 the person is 18 years of age or older, and was issued by a
1-35 governmental agency. The proof of identification may include a
1-36 driver's license issued by this state or another state, a passport,
1-37 or an identification card issued by a state or the federal
1-38 government.

1-39 SECTION 2. This Act takes effect September 1, 2007.

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