

By: Martinez

H.B. No. 839

A BILL TO BE ENTITLED

AN ACT

relating to the sale or delivery of salvia divinorum to a child;
providing a penalty.

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

SECTION 1. Chapter 48, Penal Code, is amended by adding
Section 48.03 to read as follows:

Sec. 48.03. PROHIBITION RELATING TO SALE OR DELIVERY OF
SALVIA DIVINORUM TO CHILD. (a) In this section, "child" means a
person younger than 18 years of age.

(b) A person commits an offense if the person, with criminal
negligence, sells, delivers, or causes to be sold or delivered
salvia divinorum or a product containing salvia divinorum to a
child or to another person who intends to deliver it to a child.

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

(d) It is not a defense to prosecution under this section
that, at the time of the offense, the actor was an employee of a
retail establishment that sold or offered for sale salvia divinorum
or a product containing salvia divinorum.

(e) It is a defense to prosecution under this section that
the child presented to the actor an apparently valid proof of
identification, including a driver's license issued by this state
or another state, a passport, or an identification certificate or
card issued by a state or the federal government. A proof of
identification satisfies the requirements of this subsection if the

1 identification:

2 (1) contains a physical description and photograph
3 consistent with the person's appearance;

4 (2) purports to establish that the person is 18 years
5 of age or older; and

6 (3) was issued by a governmental agency.

7 SECTION 2. This Act takes effect September 1, 2009.