

By: Estes

S.B. No. 257

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the sale or delivery of salvia divinorum to a child;
3 providing a penalty.

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

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

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

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

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

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

19 (e) It is a defense to prosecution under this section that
20 the child presented to the actor an apparently valid proof of
21 identification, including a driver's license issued by this state
22 or another state, a passport, or an identification certificate or
23 card issued by a state or the federal government. A proof of
24 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.