

1-1 By: Estes S.B. No. 257
1-2 (In the Senate - Filed November 10, 2008; February 11, 2009,
1-3 read first time and referred to Committee on Criminal Justice;
1-4 March 26, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 5, Nays 0; March 26, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 257 By: Hinojosa

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the sale or delivery of salvia divinorum or Salvinorin A
1-11 to a child; providing a penalty.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Chapter 48, Penal Code, is amended by adding
1-14 Section 48.03 to read as follows:

1-15 Sec. 48.03. PROHIBITION RELATING TO SALE OR DELIVERY OF
1-16 SALVIA DIVINORUM TO CHILD. (a) In this section, "child" means a
1-17 person younger than 18 years of age.

1-18 (b) A person commits an offense if the person, with criminal
1-19 negligence, sells, delivers, or causes to be sold or delivered
1-20 salvia divinorum, Salvinorin A, or a product containing salvia
1-21 divinorum or Salvinorin A to a child or to another person who
1-22 intends to deliver it to a child.

1-23 (c) An offense under this section is a Class C misdemeanor.

1-24 (d) It is not a defense to prosecution under this section
1-25 that, at the time of the offense, the actor was an employee of a
1-26 retail establishment that sold or offered for sale salvia
1-27 divinorum, Salvinorin A, or a product containing salvia divinorum
1-28 or Salvinorin A.

1-29 (e) It is a defense to prosecution under this section that
1-30 the child presented to the actor an apparently valid proof of
1-31 identification, including a driver's license issued by this state
1-32 or another state, a passport, or an identification certificate or
1-33 card issued by a state or the federal government. A proof of
1-34 identification satisfies the requirements of this subsection if the
1-35 identification:

1-36 (1) contains a physical description and photograph
1-37 consistent with the person's appearance;

1-38 (2) purports to establish that the person is 18 years
1-39 of age or older; and

1-40 (3) was issued by a governmental agency.

1-41 SECTION 2. This Act takes effect September 1, 2009.

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