A BILL TO BE ENTITLED

AN ACT

relating to the penalties for possession of two ounces or less of marihuana and to the issuance of an occupational driver's license.

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

SECTION 1. Section 481.121, Health and Safety Code, is amended by amending Subsection (b) and adding Subsections (c) and (d) to read as follows:

(b) An offense under Subsection (a) is:

(1) a Class C misdemeanor if the amount of marihuana possessed is one ounce or less, except as provided by Subsection (c);

(2) a Class B misdemeanor if the amount of marihuana possessed is two ounces or less but more than one ounce;

(3) a Class A misdemeanor if the amount of marihuana possessed is four ounces or less but more than two ounces;

(4) a state jail felony if the amount of marihuana possessed is five pounds or less but more than four ounces;

(5) a felony of the third degree if the amount of marihuana possessed is 50 pounds or less but more than 5 pounds;

(6) a felony of the second degree if the amount of marihuana possessed is 2,000 pounds or less but more than 50 pounds; and

(7) punishable by imprisonment in the Texas...
Department of Criminal Justice for life or for a term of not more than 99 years or less than 5 years, and a fine not to exceed $50,000, if the amount of marihuana possessed is more than 2,000 pounds.

(c) An offense under Subsection (b)(1) is a Class B misdemeanor if it is shown on the trial of the offense that the defendant has been previously convicted under this section three times and each prior offense was committed in the 24 months preceding the date of commission of the instant offense.

(d) A defendant convicted of an offense punishable under Subsection (c) is not eligible for community supervision under Article 42.12, Code of Criminal Procedure.

SECTION 2. Article 45.051, Code of Criminal Procedure, is amended by adding Subsection (g) to read as follows:

(g) This subsection applies only to a defendant charged with an offense under Section 481.121, Health and Safety Code, who is granted a deferral under Subsection (a). In addition to any other requirement, the judge shall, during the deferral period, require that the defendant successfully complete a drug abuse awareness and education program approved by the Department of State Health Services.

SECTION 3. Sections 521.242(a), (b), and (e), Transportation Code, are amended to read as follows:

(a) A person whose license has been suspended for a cause other than a physical or mental disability or impairment or a conviction under Section 49.04, Penal Code, may apply for an occupational license by filing a verified petition with the clerk of a justice, municipal, [the] county, [court] or district court
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with jurisdiction that includes the precinct or municipality in which:

(1) the person resides; or

(2) the offense occurred for which the license was suspended.

(b) A person may apply for an occupational license by filing a verified petition only with the clerk of the court in which the person was convicted if:

(1) the person's license has been automatically suspended or canceled under this chapter for a conviction of an offense under the laws of this state; and

(2) the person has not been issued, in the 10 years preceding the date of the filing of the petition, more than one occupational license after a conviction under the laws of this state.

(e) The clerk of the court shall file the petition as in any civil matter.

SECTION 4. (a) The change in law made by Sections 1 and 2 of this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

(b) The change in law made by Section 3 of this Act applies only to an occupational driver's license that is applied for on or
after the effective date of this Act. An occupational driver's license applied for before the effective date of this Act is covered by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 2011.