

By: Dutton

H.B. No. 548

A BILL TO BE ENTITLED

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

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

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

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

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

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

14 (3) [~~2~~] a Class A misdemeanor if the amount of
15 marihuana possessed is four ounces or less but more than two ounces;

16 (4) [~~3~~] a state jail felony if the amount of
17 marihuana possessed is five pounds or less but more than four
18 ounces;

19 (5) [~~4~~] a felony of the third degree if the amount of
20 marihuana possessed is 50 pounds or less but more than 5 pounds;

21 (6) [~~5~~] a felony of the second degree if the amount
22 of marihuana possessed is 2,000 pounds or less but more than 50
23 pounds; and

24 (7) [~~6~~] punishable by imprisonment in the Texas

1 Department of Criminal Justice for life or for a term of not more
2 than 99 years or less than 5 years, and a fine not to exceed \$50,000,
3 if the amount of marihuana possessed is more than 2,000 pounds.

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

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

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

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

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

23 (a) A person whose license has been suspended for a cause
24 other than a physical or mental disability or impairment or a
25 conviction under Section 49.04, Penal Code, may apply for an
26 occupational license by filing a verified petition with the clerk
27 of a justice, municipal, [the] county, [court] or district court

1 with jurisdiction that includes [~~in~~] the precinct or municipality
2 [~~county~~] in which:

3 (1) the person resides; or

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

6 (b) A person may apply for an occupational license by filing
7 a verified petition only with the clerk of the [~~county court or~~
8 ~~district~~] court in which the person was convicted if:

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

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

16 (e) The clerk of the court shall file the petition as in any
17 other [~~civil~~] matter.

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

26 (b) The change in law made by Section 3 of this Act applies
27 only to an occupational driver's license that is applied for on or

1 after the effective date of this Act. An occupational driver's
2 license applied for before the effective date of this Act is covered
3 by the law in effect on the date the application was filed, and the
4 former law is continued in effect for that purpose.

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