

By: Estes, Shapiro

S.B. No. 348

A BILL TO BE ENTITLED

AN ACT

relating to the sale or delivery of salvia divinorum or Salvinorin A 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, Salvinorin A, or a product containing salvia divinorum or Salvinorin A 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, Salvinorin A, or a product containing salvia divinorum or Salvinorin A.

(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

1 card issued by a state or the federal government. A proof of
2 identification satisfies the requirements of this subsection if the
3 identification:

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

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

8 (3) was issued by a governmental agency.

9 SECTION 2. This Act takes effect September 1, 2011.