

By: Estes

S.B. No. 348

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the sale or delivery of salvia divinorum or Salvinorin A
3 to a child; 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, Salvinorin A, or a product containing salvia
13 divinorum or Salvinorin A to a child or to another person who
14 intends to deliver it to a child.

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

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

21 (e) It is a defense to prosecution under this section that
22 the child presented to the actor an apparently valid proof of
23 identification, including a driver's license issued by this state
24 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.