

1-1 By: Estes, Shapiro S.B. No. 348  
1-2 (In the Senate - Filed January 13, 2011; February 2, 2011,  
1-3 read first time and referred to Committee on Criminal Justice;  
1-4 April 7, 2011, reported favorably by the following vote: Yeas 6,  
1-5 Nays 0; April 7, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the sale or delivery of salvia divinorum or Salvinorin A  
1-9 to a child; providing a penalty.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Chapter 48, Penal Code, is amended by adding  
1-12 Section 48.03 to read as follows:

1-13 Sec. 48.03. PROHIBITION RELATING TO SALE OR DELIVERY OF  
1-14 SALVIA DIVINORUM TO CHILD. (a) In this section, "child" means a  
1-15 person younger than 18 years of age.

1-16 (b) A person commits an offense if the person, with criminal  
1-17 negligence, sells, delivers, or causes to be sold or delivered  
1-18 salvia divinorum, Salvinorin A, or a product containing salvia  
1-19 divinorum or Salvinorin A to a child or to another person who  
1-20 intends to deliver it to a child.

1-21 (c) An offense under this section is a Class C misdemeanor.

1-22 (d) It is not a defense to prosecution under this section  
1-23 that, at the time of the offense, the actor was an employee of a  
1-24 retail establishment that sold or offered for sale salvia  
1-25 divinorum, Salvinorin A, or a product containing salvia divinorum  
1-26 or Salvinorin A.

1-27 (e) It is a defense to prosecution under this section that  
1-28 the child presented to the actor an apparently valid proof of  
1-29 identification, including a driver's license issued by this state  
1-30 or another state, a passport, or an identification certificate or  
1-31 card issued by a state or the federal government. A proof of  
1-32 identification satisfies the requirements of this subsection if the  
1-33 identification:

1-34 (1) contains a physical description and photograph  
1-35 consistent with the person's appearance;

1-36 (2) purports to establish that the person is 18 years  
1-37 of age or older; and

1-38 (3) was issued by a governmental agency.

1-39 SECTION 2. This Act takes effect September 1, 2011.

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