

BILL ANALYSIS

C.S.H.B. 3240
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current Texas law makes it a Class A misdemeanor offense to knowingly manufacture, deliver, or possess with intent to deliver a controlled substance listed in a schedule by an action of the commissioner of public health under the Texas Controlled Substances Act but not listed in a penalty group. C.S.H.B. 3240 seeks to enhance the penalty for this offense with respect to the delivery of such a controlled substance to a certain child or to a person intending to deliver the substance to such a child.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3240 amends the Health and Safety Code to enhance from a Class A misdemeanor to a state jail felony the penalty for the offense of knowingly manufacturing, delivering, or possessing with intent to deliver a controlled substance listed in a schedule by an action of the commissioner of public health under the Texas Controlled Substances Act but not listed in a penalty group if the actor delivers such a substance to a person who is younger than 18 years of age, who is enrolled in a public or private primary or secondary school, or who the actor knows or believes intends to deliver the controlled substance to such a person.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3240 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Sec. 481.1221, Health and Safety Code, is amended by adding Sec. 481.1221.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 481.119, Health and Safety Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) A person commits an offense if the person knowingly manufactures, delivers, or possesses with intent to deliver a controlled substance listed in a schedule by an action of

Sec. 481.1221. OFFENSE: DELIVERY OF CONTROLLED SUBSTANCE TO CHILD.

(a) A person commits an offense if the person knowingly delivers a controlled substance listed in a schedule by an action of the commissioner under this chapter but not listed in a penalty group to a person:

- (1) who is a child;
- (2) who is enrolled in a public or private primary or secondary school; or
- (3) who the actor knows or believes intends to deliver the controlled substance to a person described by Subdivision (1) or (2).

(b) An offense under this section is a state jail felony.

(c) In this section, "child" means a person younger than 18 years of age.

(d) If conduct that is an offense under this section is also an offense under another section of this chapter, the actor may be prosecuted under either section or both.

No equivalent provision.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

the commissioner under this chapter but not listed in a penalty group. Except as provided by Subsection (c), an ~~[An]~~ offense under this subsection is a Class A misdemeanor.

(c) An offense under Subsection (a) is a state jail felony if the person delivers a controlled substance described by that subsection to a person:

- (1) who is younger than 18 years of age;
- (2) who is enrolled in a public or private primary or secondary school; or
- (3) who the actor knows or believes intends to deliver the controlled substance to a person described by Subdivision (1) or (2).

SECTION 2. The change in law made by 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 governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 3. This Act takes effect September 1, 2013.