

By: Miller of Fort Bend

H.B. No. 2498

A BILL TO BE ENTITLED

AN ACT

relating to the punishment for the offense of delivery of marihuana or possession with the intent to deliver marihuana.

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

SECTION 1. Section 481.120, Health and Safety Code, is amended to read as follows:

Sec. 481.120. OFFENSE: DELIVERY OF MARIHUANA OR POSSESSION WITH THE INTENT TO DELIVER MARIHUANA. (a) Except as authorized by this chapter, a person commits an offense if the person knowingly [~~or intentionally~~] delivers or possesses with the intent to deliver marihuana.

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

(1) [~~a Class B misdemeanor if the amount of marihuana delivered is one-fourth ounce or less and the person committing the offense does not receive remuneration for the marihuana,~~

~~(2)] a Class A misdemeanor if the amount of marihuana [delivered] is two ounces [~~one-fourth ounce~~] or less [~~and the person committing the offense receives remuneration for the marihuana~~];~~

(2) [~~(3)] a state jail felony if the amount of marihuana [delivered] is four ounces or less but more than two ounces;~~

(3) a felony of the third degree if the amount of marihuana is five pounds or less but more than four ounces

1 ~~[one-fourth ounce]~~;

2 (4) a felony of the second degree if the amount of
3 marihuana ~~[delivered]~~ is 50 pounds or less but more than five
4 pounds;

5 (5) a felony of the first degree if the amount of
6 marihuana ~~[delivered]~~ is 2,000 pounds or less but more than 50
7 pounds; and

8 (6) punishable by imprisonment in the Texas Department
9 of Criminal Justice for life or for a term of not more than 99 years
10 or less than 10 years, and a fine not to exceed \$100,000, if the
11 amount of marihuana ~~[delivered]~~ is more than 2,000 pounds.

12 SECTION 2. Sections 481.134(d), (e), and (f), Health and
13 Safety Code, are amended to read as follows:

14 (d) An offense otherwise punishable under Section
15 481.112(b), 481.113(b), 481.114(b), 481.115(b), 481.116(b),
16 481.1161(b)(3), 481.120(b)(2) ~~[481.120(b)(3)]~~, or 481.121(b)(3) is
17 a felony of the third degree if it is shown on the trial of the
18 offense that the offense was committed:

19 (1) in, on, or within 1,000 feet of any real property
20 that is owned, rented, or leased to a school or school board, the
21 premises of a public or private youth center, or a playground; or

22 (2) on a school bus.

23 (e) An offense otherwise punishable under Section
24 481.117(b), 481.119(a), 481.120(b)(1) ~~[481.120(b)(2)]~~, or
25 481.121(b)(2) is a state jail felony if it is shown on the trial of
26 the offense that the offense was committed:

27 (1) in, on, or within 1,000 feet of any real property

1 that is owned, rented, or leased to a school or school board, the
2 premises of a public or private youth center, or a playground; or

3 (2) on a school bus.

4 (f) An offense otherwise punishable under Section
5 481.118(b), 481.119(b), [~~481.120(b)(1)~~], or 481.121(b)(1) is a
6 Class A misdemeanor if it is shown on the trial of the offense that
7 the offense was committed:

8 (1) in, on, or within 1,000 feet of any real property
9 that is owned, rented, or leased to a school or school board, the
10 premises of a public or private youth center, or a playground; or

11 (2) on a school bus.

12 SECTION 3. The change in law made by this Act applies only
13 to an offense committed on or after the effective date of this Act.
14 An offense committed before the effective date of this Act is
15 governed by the law in effect on the date the offense was committed,
16 and the former law is continued in effect for that purpose. For
17 purposes of this section, an offense was committed before the
18 effective date of this Act if any element of the offense occurred
19 before that date.

20 SECTION 4. This Act takes effect September 1, 2013.