

By: Thompson of Harris

H.B. No. 3326

A BILL TO BE ENTITLED

1 AN ACT
2 Relating to decreasing the punishment for certain misdemeanor and
3 felony offenses.

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

5 SECTION 1. Section 481.121, Health and Safety Code, is
6 amended by amending Subsection (b) and adding Subsections (c) and
7 (d) to read as follows:

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

9 (1) a Class C misdemeanor if the amount of marihuana
10 possessed is one ounce or less;

11 (2) a Class B misdemeanor if the amount of marihuana
12 possessed is two ounces or less but more than one ounce;

13 (3) [~~(2)~~] a Class A misdemeanor if the amount of
14 marihuana possessed is four ounces or less but more than two ounces;

15 (4) [~~(3)~~] a state jail felony if the amount of
16 marihuana possessed is five pounds or less but more than four
17 ounces;

18 (5) [~~(4)~~] a felony of the third degree if the amount of
19 marihuana possessed is 50 pounds or less but more than 5 pounds;

20 (6) [~~(5)~~] a felony of the second degree if the amount
21 of marihuana possessed is 2,000 pounds or less but more than 50
22 pounds; and

23 (7) [~~(6)~~] punishable by imprisonment in the Texas
24 Department of Criminal Justice for life or for a term of not more

1 than 99 years or less than 5 years, and a fine not to exceed \$50,000,
2 if the amount of marihuana possessed is more than 2,000 pounds.

3 SECTION 2. Section 15(a)(1), Article 42.12, Code of
4 Criminal Procedure, is amended to read as follows:

5 (a)(1) On conviction of a state jail felony under Section
6 [~~481.115(b)~~], 481.1151(b)(1), 481.116(b), 481.1161(b)(3),
7 481.121(b)(3), or 481.129(g)(1), Health and Safety Code, that is
8 punished under Section 12.35(a), Penal Code, the judge shall
9 suspend the imposition of the sentence and place the defendant on
10 community supervision, unless the defendant has previously been
11 convicted of a felony, other than a felony punished under Section
12 12.44(a), Penal Code, or unless the conviction resulted from an
13 adjudication of the guilt of a defendant previously placed on
14 deferred adjudication community supervision for the offense, in
15 which event the judge may suspend the imposition of the sentence and
16 place the defendant on community supervision or may order the
17 sentence to be executed. The provisions of this subdivision
18 requiring the judge to suspend the imposition of the sentence and
19 place the defendant on community supervision do not apply to a
20 defendant who:

21 (A) under Section 481.1151(b)(1), Health and
22 Safety Code, possessed more than five abuse units of the controlled
23 substance;

24 (B) under Section 481.1161(b)(3), Health and
25 Safety Code, possessed more than one pound, by aggregate weight,
26 including adulterants or dilutants, of the controlled substance; or

27 (C) under Section 481.121(b)(3), Health and

1 Safety Code, possessed more than one pound of marihuana.

2 SECTION 3. Section 481.115(b), Health and Safety Code, is
3 amended to read as follows:

4 (b) An offense under Subsection (a) is a Class A misdemeanor
5 [~~state jail felony~~] if the amount of the controlled substance
6 possessed is, by aggregate weight, including adulterants or
7 dilutants, less than one gram.

8 SECTION 4. Section 28.03(b), Penal Code, is amended to read
9 as follows:

10 (b) Except as provided by Subsections (f) and (h), an
11 offense under this section is:

12 (1) a Class C misdemeanor if:

13 (A) the amount of pecuniary loss is less than
14 \$500 [~~\$50~~]; or

15 (B) except as provided in Subdivision (3)(A) or
16 (3)(B), it causes substantial inconvenience to others;

17 (2) a Class B misdemeanor if the amount of pecuniary
18 loss is \$500 [~~\$50~~] or more but less than \$1,500 [~~\$500~~];

19 (3) a Class A misdemeanor if:

20 (A) the amount of pecuniary loss is \$1,500 [~~\$500~~]
21 or more but less than \$20,000 [~~\$1,500~~]; or

22 (B) the actor causes in whole or in part
23 impairment or interruption of any public water supply, or causes to
24 be diverted in whole, in part, or in any manner, including
25 installation or removal of any device for any such purpose, any
26 public water supply, regardless of the amount of the pecuniary
27 loss;

1 (4) a state jail felony if the amount of pecuniary loss
2 is:

3 (A) [~~\$1,500 or more but less than \$20,000;~~
4 [~~(B)~~] less than \$20,000 [~~\$1,500~~], if the property
5 damaged or destroyed is a habitation and if the damage or
6 destruction is caused by a firearm or explosive weapon;

7 (B) [~~(C)~~] less than \$20,000 [~~\$1,500~~], if the
8 property was a fence used for the production or containment of:

9 (i) cattle, bison, horses, sheep, swine,
10 goats, exotic livestock, or exotic poultry; or

11 (ii) game animals as that term is defined by
12 Section 63.001, Parks and Wildlife Code; or

13 (C) [~~(D)~~] less than \$20,000 and the actor causes
14 wholly or partly impairment or interruption of public
15 communications, public transportation, public gas or power supply,
16 or other public service, or causes to be diverted wholly, partly, or
17 in any manner, including installation or removal of any device for
18 any such purpose, any public communications or public gas or power
19 supply;

20 (5) a felony of the third degree if the amount of the
21 pecuniary loss is \$20,000 or more but less than \$100,000;

22 (6) a felony of the second degree if the amount of
23 pecuniary loss is \$100,000 or more but less than \$200,000; or

24 (7) a felony of the first degree if the amount of
25 pecuniary loss is \$200,000 or more.

26 SECTION 5. Sections 28.08(b) and (d), Penal Code, are
27 amended to read as follows:

1 (b) Except as provided by Subsection (d), an offense under
2 this section is:

3 (1) a Class C misdemeanor if the amount of pecuniary
4 loss is less than \$100;

5 (2) a Class B misdemeanor if the amount of pecuniary
6 loss is \$100 or more but less than \$750 [~~\$500~~];

7 (3) [~~(2)~~] a Class A misdemeanor if the amount of
8 pecuniary loss is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];

9 (4) [~~(3)~~] a state jail felony if the amount of
10 pecuniary loss is \$2,500 [~~\$1,500~~] or more but less than \$30,000
11 [~~\$20,000~~];

12 (5) [~~(4)~~] a felony of the third degree if the amount of
13 pecuniary loss is \$30,000 [~~\$20,000~~] or more but less than \$150,000
14 [~~\$100,000~~];

15 (6) [~~(5)~~] a felony of the second degree if the amount
16 of pecuniary loss is \$150,000 [~~\$100,000~~] or more but less than
17 \$300,000 [~~\$200,000~~]; or

18 (7) [~~(6)~~] a felony of the first degree if the amount of
19 pecuniary loss is \$300,000 [~~\$200,000~~] or more.

20 (d) An offense under this section is a state jail felony if:

21 (1) the marking is made on a school, an institution of
22 higher education, a place of worship or human burial, a public
23 monument, or a community center that provides medical, social, or
24 educational programs; and

25 (2) the amount of the pecuniary loss to real property
26 or to tangible personal property is \$750 or more but less than
27 \$30,000 [~~\$20,000~~].

1 SECTION 6. Section 30.02(c), Penal Code, is amended to read
2 as follows:

3 (c) Except as provided in Subsection (d), an offense under
4 this section is a:

5 (1) Class A misdemeanor [~~state jail felony~~] if
6 committed in a building other than a habitation; or

7 (2) felony of the second degree if committed in a
8 habitation.

9 SECTION 7. Section 31.03(e), Penal Code, is amended to read
10 as follows:

11 (e) Except as provided by Subsection (f), an offense under
12 this section is:

13 (1) a Class C misdemeanor if the value of the property
14 stolen is less than \$500 [~~+~~

15 [~~(A) \$50; or~~

16 [~~(B) \$20 and the defendant obtained the~~
17 ~~property by issuing or passing a check or similar sight order in a~~
18 ~~manner described by Section 31.06];~~

19 (2) a Class B misdemeanor if:

20 (A) the value of the property stolen is \$500 [~~+~~

21 [~~(i) \$50~~] or more but less than \$1,500
22 [~~\$500~~]; [~~or~~

23 [~~(ii) \$20 or more but less than \$500 and the~~
24 ~~defendant obtained the property by issuing or passing a check or~~
25 ~~similar sight order in a manner described by Section 31.06,]~~

26 (B) the value of the property stolen is less than
27 \$500 [~~+~~

1 [~~(i)~~ \$50] and the defendant has previously
2 been convicted of any grade of theft; or

3 [~~(ii)~~ \$20, the defendant has previously
4 ~~been convicted of any grade of theft, and the defendant obtained the~~
5 ~~property by issuing or passing a check or similar sight order in a~~
6 ~~manner described by Section 31.06, or]~~

7 (C) the property stolen is a driver's license,
8 commercial driver's license, or personal identification
9 certificate issued by this state or another state;

10 (3) a Class A misdemeanor if the value of the property
11 stolen is \$1,500 [~~\$500~~] or more but less than \$20,000 [~~\$1,500~~];

12 (4) a state jail felony if:

13 (A) [~~the value of the property stolen is \$1,500~~
14 ~~or more but less than \$20,000, or]~~ the property is less than 10 head
15 of sheep, swine, or goats or any part thereof under the value of
16 \$20,000;

17 (B) regardless of value, the property is stolen
18 from the person of another or from a human corpse or grave,
19 including property that is a military grave marker;

20 (C) the property stolen is a firearm, as defined
21 by Section 46.01;

22 (D) the value of the property stolen is less than
23 \$20,000 [~~\$1,500~~] and the defendant has been previously convicted
24 two or more times of any grade of theft;

25 (E) the property stolen is an official ballot or
26 official carrier envelope for an election; or

27 (F) the value of the property stolen is less than

1 \$20,000 and the property stolen is:

2 (i) aluminum;

3 (ii) bronze;

4 (iii) copper; or

5 (iv) brass;

6 (5) a felony of the third degree if the value of the
7 property stolen is \$20,000 or more but less than \$100,000, or the
8 property is:

9 (A) cattle, horses, or exotic livestock or exotic
10 fowl as defined by Section 142.001, Agriculture Code, stolen during
11 a single transaction and having an aggregate value of less than
12 \$100,000; or

13 (B) 10 or more head of sheep, swine, or goats
14 stolen during a single transaction and having an aggregate value of
15 less than \$100,000;

16 (6) a felony of the second degree if:

17 (A) the value of the property stolen is \$100,000
18 or more but less than \$200,000; or

19 (B) the value of the property stolen is less than
20 \$200,000 and the property stolen is an automated teller machine or
21 the contents or components of an automated teller machine; or

22 (7) a felony of the first degree if the value of the
23 property stolen is \$200,000 or more.

24 SECTION 8. Sections 31.04(b) and (e), Penal Code, are
25 amended to read as follows:

26 (b) For purposes of this section, intent to avoid payment is
27 presumed if:

1 (1) the actor absconded without paying for the service
2 or expressly refused to pay for the service in circumstances where
3 payment is ordinarily made immediately upon rendering of the
4 service, as in hotels, campgrounds, recreational vehicle parks,
5 restaurants, and comparable establishments;

6 (2) the actor failed to make payment under a service
7 agreement within 10 days after receiving notice demanding payment;

8 (3) the actor returns property held under a rental
9 agreement after the expiration of the rental agreement and fails to
10 pay the applicable rental charge for the property within 10 days
11 after the date on which the actor received notice demanding
12 payment; or

13 (4) the actor failed to return the property held under
14 a rental agreement:

15 (A) within five days after receiving notice
16 demanding return, if the property is valued at less than \$2,500
17 [~~\$1,500~~]; or

18 (B) within three days after receiving notice
19 demanding return, if the property is valued at \$2,500 [~~\$1,500~~] or
20 more.

21 (e) An offense under this section is:

22 (1) a Class C misdemeanor if the value of the service
23 stolen is less than \$100 [~~\$20~~];

24 (2) a Class B misdemeanor if the value of the service
25 stolen is \$100 [~~\$20~~] or more but less than \$750 [~~\$500~~];

26 (3) a Class A misdemeanor if the value of the service
27 stolen is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];

1 (4) a state jail felony if the value of the service
2 stolen is \$2,500 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];

3 (5) a felony of the third degree if the value of the
4 service stolen is \$30,000 [~~\$20,000~~] or more but less than \$150,000
5 [~~\$100,000~~];

6 (6) a felony of the second degree if the value of the
7 service stolen is \$150,000 [~~\$100,000~~] or more but less than
8 \$300,000 [~~\$200,000~~]; or

9 (7) a felony of the first degree if the value of the
10 service stolen is \$300,000 [~~\$200,000~~] or more.

11 SECTION 9. Section 32.21(c), Penal Code, is amended to read
12 as follows:

13 (c) Except as provided by Subsections [~~(d),~~] (e) [~~7~~] and
14 (e-1), an offense under this section is a Class A misdemeanor.

15 SECTION 10. Section 32.31(d), Penal Code, is amended to
16 read as follows:

17 (d) An offense under this section is a Class A misdemeanor
18 [~~state jail felony~~], except that the offense is a felony of the
19 third degree if it is shown on the trial of the offense that the
20 offense was committed against an elderly individual as defined by
21 Section 22.04.

22 SECTION 11. Section 32.51(c), Penal Code, is amended to
23 read as follows:

24 (c) An offense under this section is:

25 (1) a Class A misdemeanor [~~state jail felony~~] if the
26 number of items obtained, possessed, transferred, or used is less
27 than five;

1 (2) a state jail felony [~~of the third degree~~] if the
2 number of items obtained, possessed, transferred, or used is five
3 or more but less than 10;

4 (3) a felony of the third [~~second~~] degree if the number
5 of items obtained, possessed, transferred, or used is 10 or more but
6 less than 50; or

7 (4) a felony of the second [~~first~~] degree if the number
8 of items obtained, possessed, transferred, or used is 50 or more.

9 SECTION 12. Section 43.02(c), Penal Code, is amended to
10 read as follows:

11 (c) An offense under this section is a Class B misdemeanor,
12 except that the offense is:

13 (1) a Class A misdemeanor if the actor has previously
14 been convicted [~~one or two times~~] of an offense under this section;
15 or

16 (2) [~~a state jail felony if the actor has previously~~
17 ~~been convicted three or more times of an offense under this section,~~
18 ~~or~~

19 [~~(3)~~] a felony of the second degree if the person
20 solicited is younger than 18 years of age, regardless of whether the
21 actor knows the age of the person solicited at the time the actor
22 commits the offense.

23 SECTION 13. Section 502.001(c), Business & Commerce Code,
24 is amended to read as follows:

25 (c) A restaurant or bar owner shall display in a prominent
26 place on the premises of the restaurant or bar a sign stating in
27 letters at least one-half inch high: "UNDER SECTION 32.51, PENAL

1 CODE, IT IS A CLASS A MISDEMEANOR [~~STATE JAIL FELONY~~] (PUNISHABLE BY
2 CONFINEMENT IN [~~A STATE~~] JAIL FOR NOT MORE THAN ONE YEAR) [~~TWO~~
3 ~~YEARS~~] TO OBTAIN, POSSESS, TRANSFER, OR USE A CUSTOMER'S DEBIT
4 CARD OR CREDIT CARD NUMBER WITHOUT THE CUSTOMER'S CONSENT."

5 SECTION 14. Section 32.21(d), Penal Code, is repealed.

6 SECTION 15. The change in law made by this Act applies to an
7 offense committed before, on, or after the effective date of this
8 Act, except that a final conviction that exists on the effective
9 date of this Act is unaffected by this Act.

10 SECTION 16. This Act takes effect September 1, 2015.