

By: Ellis

S.B. No. 1417

A BILL TO BE ENTITLED

AN ACT

1
2 relating to a civil penalty for possession of certain small amounts
3 of marihuana and an exception to prosecution for possession of
4 associated drug paraphernalia.

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

6 SECTION 1. Section 481.121(b), Health and Safety Code, is
7 amended to read as follows:

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

9 (1) a Class B misdemeanor if the amount of marihuana
10 possessed is two ounces or less but more than one ounce;

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

13 (3) a state jail felony if the amount of marihuana
14 possessed is five pounds or less but more than four ounces;

15 (4) a felony of the third degree if the amount of
16 marihuana possessed is 50 pounds or less but more than 5 pounds;

17 (5) a felony of the second degree if the amount of
18 marihuana possessed is 2,000 pounds or less but more than 50 pounds;

19 and

20 (6) punishable by imprisonment in the Texas Department
21 of Criminal Justice for life or for a term of not more than 99 years
22 or less than 5 years, and a fine not to exceed \$50,000, if the amount
23 of marihuana possessed is more than 2,000 pounds.

24 SECTION 2. Subchapter D, Chapter 481, Health and Safety

1 Code, is amended by adding Section 481.1211 to read as follows:

2 Sec. 481.1211. CIVIL PENALTY: POSSESSION OF SMALL AMOUNT OF
3 MARIHUANA. (a) A person who knowingly or intentionally possesses a
4 usable quantity of marihuana in an amount that is one ounce or less
5 is liable to the state for a civil penalty not to exceed \$100.

6 (b) The imposition of a civil penalty under this section is
7 not a conviction and may not be considered a conviction for any
8 purpose.

9 (c) A peace officer may not make an arrest solely because of
10 a violation of this section. A peace officer shall issue to a
11 person who violates this section a citation that contains written
12 notice of the time and place the person must appear before a justice
13 court, the name and address of the person charged, and the civil
14 violation charged.

15 (d) The district or county attorney of the county in which
16 the conduct described by Subsection (a) is alleged to have occurred
17 shall bring an action in the justice court of the county to collect
18 the civil penalty of a person who receives a citation under this
19 section.

20 (e) The court may waive or reduce the civil penalty if:

21 (1) the person subject to a civil penalty under this
22 section attends a program that provides education in substance
23 abuse and is approved by the Department of State Health Services or
24 the Texas Department of Public Safety; or

25 (2) the person performs not more than 10 hours of
26 community service, as recommended by the court.

27 (f) Law enforcement shall seize any marihuana in possession

1 of a person subject to a civil penalty under this section and
2 preserve the marihuana as if the marihuana were evidence of an
3 offense under this chapter pending the final resolution of a civil
4 proceeding under this section and any available appeal. After
5 final resolution of the civil proceeding and any available appeal,
6 any marihuana seized is subject to forfeiture and shall be disposed
7 of in accordance with Section 481.159.

8 (g) The identity of a person cited or found liable for a
9 civil penalty under this section is confidential information under
10 Section 552.101, Government Code.

11 SECTION 3. Section 481.125, Health and Safety Code, is
12 amended by adding Subsection (g) to read as follows:

13 (g) It is an exception to the application of this section
14 that drug paraphernalia was knowingly or intentionally used,
15 possessed, or delivered solely in furtherance of a violation of
16 Section 481.1211.

17 SECTION 4. The changes in law made by this Act apply only to
18 a violation of law that occurs on or after the effective date of
19 this Act. A violation that occurs before the effective date of this
20 Act is governed by the law in effect on the date the violation
21 occurred, and the former law is continued in effect for that
22 purpose. For purposes of this section, a violation of law occurred
23 before the effective date of this Act if any element of the
24 violation occurred before that date.

25 SECTION 5. This Act takes effect September 1, 2015.