

By: Thompson of Harris

H.B. No. 241

A BILL TO BE ENTITLED

AN ACT

relating to the penalty for certain offenders for possession of a small amount of certain controlled substances.

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

SECTION 1. Section 481.115(b), Health and Safety Code, is amended to read as follows:

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

SECTION 2. Section 481.1151(b), Health and Safety Code, is amended to read as follows:

(b) An offense under this section is:

(1) a Class A misdemeanor [~~state jail felony~~] if the number of abuse units of the controlled substance is fewer than 20;

(2) a felony of the third degree if the number of abuse units of the controlled substance is 20 or more but fewer than 80;

(3) a felony of the second degree if the number of abuse units of the controlled substance is 80 or more but fewer than 4,000;

(4) a felony of the first degree if the number of abuse units of the controlled substance is 4,000 or more but fewer than 8,000; and

(5) punishable by imprisonment in the Texas Department

1 of Criminal Justice for life or for a term of not more than 99 years  
2 or less than 15 years and a fine not to exceed \$250,000, if the  
3 number of abuse units of the controlled substance is 8,000 or more.

4 SECTION 3. Section 481.116(b), Health and Safety Code, is  
5 amended to read as follows:

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

10 SECTION 4. Section 481.134(d), Health and Safety Code, is  
11 amended to read as follows:

12 (d) An offense otherwise punishable under Section  
13 481.112(b), 481.1121(b)(1), 481.113(b), 481.114(b), [~~481.115(b),~~  
14 ~~481.1151(b)(1), 481.116(b),~~] 481.1161(b)(3), 481.120(b)(3), or  
15 481.121(b)(3) is a felony of the third degree if it is shown on the  
16 trial of the offense that the offense was committed:

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

20 (2) on a school bus.

21 SECTION 5. Subchapter K, Chapter 42A, Code of Criminal  
22 Procedure, is amended by adding Article 42A.515 to read as follows:

23 Art. 42A.515. COMMUNITY SUPERVISION FOR CERTAIN DRUG  
24 OFFENSES; EDUCATIONAL PROGRAM. A judge who grants community  
25 supervision to a person convicted of a Class A misdemeanor under  
26 Section 481.115(b), 481.1151(b)(1), 481.116(b), or 481.1161(b)(2),  
27 Health and Safety Code, may require, as a condition of community

1 supervision, that the person successfully complete an educational  
2 program on substance abuse awareness approved by the Department of  
3 State Health Services.

4 SECTION 6. Articles 42A.551(a) and (c), Code of Criminal  
5 Procedure, are amended to read as follows:

6 (a) Except as otherwise provided by Subsection (b) or (c),  
7 on conviction of a state jail felony under Section [~~481.115(b),~~  
8 ~~481.1151(b)(1), 481.116(b),~~] 481.1161(b)(3), 481.121(b)(3), or  
9 481.129(g)(1), Health and Safety Code, that is punished under  
10 Section 12.35(a), Penal Code, the judge shall suspend the  
11 imposition of the sentence and place the defendant on community  
12 supervision.

13 (c) Subsection (a) does not apply to a defendant who:

14 (1) [~~under Section 481.1151(b)(1), Health and Safety~~  
15 ~~Code, possessed more than five abuse units of the controlled~~  
16 ~~substance,~~

17 [~~(2)~~] under Section 481.1161(b)(3), Health and Safety  
18 Code, possessed more than one pound, by aggregate weight, including  
19 adulterants or dilutants, of the controlled substance; or

20 (2) [~~(3)~~] under Section 481.121(b)(3), Health and  
21 Safety Code, possessed more than one pound of marihuana.

22 SECTION 7. The change in law made by this Act applies only  
23 to an offense committed on or after the effective date of this Act.  
24 An offense committed before the effective date of this Act is  
25 governed by the law in effect on the date the offense was committed,  
26 and the former law is continued in effect for that purpose. For  
27 purposes of this section, an offense was committed before the

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1 effective date of this Act if any element of the offense was  
2 committed before that date.

3 SECTION 8. This Act takes effect December 1, 2017.