

By: Wu

H.B. No. 680

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the prosecution of and penalties for possession of 0.35
3 ounces or less of marihuana.

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

5 SECTION 1. Article 14.06(d), Code of Criminal Procedure, is
6 amended to read as follows:

7 (d) Subsection (c) applies only to a person charged with
8 committing an offense under:

9 (1) Section 481.121, Health and Safety Code, if the
10 offense is punishable under Subsection (b)(2) or (3) [~~(b)(1) or~~
11 ~~(2)~~] of that section;

12 (1-a) Section 481.1161, Health and Safety Code, if the
13 offense is punishable under Subsection (b)(1) or (2) of that
14 section;

15 (2) Section 28.03, Penal Code, if the offense is
16 punishable under Subsection (b)(2) of that section;

17 (3) Section 28.08, Penal Code, if the offense is
18 punishable under Subsection (b)(2) or (3) of that section;

19 (4) Section 31.03, Penal Code, if the offense is
20 punishable under Subsection (e)(2)(A) of that section;

21 (5) Section 31.04, Penal Code, if the offense is
22 punishable under Subsection (e)(2) of that section;

23 (6) Section 38.114, Penal Code, if the offense is
24 punishable as a Class B misdemeanor; or

1 (7) Section 521.457, Transportation Code.

2 SECTION 2. Articles 42A.551(a) and (c), Code of Criminal
3 Procedure, are amended to read as follows:

4 (a) Except as otherwise provided by Subsection (b) or (c),
5 on conviction of a state jail felony under Section 481.115(b),
6 481.1151(b)(1), 481.116(b), 481.1161(b)(3), 481.121(b)(4)
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.

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

12 (1) under Section 481.1151(b)(1), Health and Safety
13 Code, possessed more than five abuse units of the controlled
14 substance;

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

18 (3) under Section 481.121(b)(4) [~~481.121(b)(3)~~],
19 Health and Safety Code, possessed more than one pound of marihuana.

20 SECTION 3. Section 481.121(b), Health and Safety Code, is
21 amended to read as follows:

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

23 (1) a Class C misdemeanor if the amount of marihuana
24 possessed is 0.35 ounces or less;

25 (2) a Class B misdemeanor if the amount of marihuana
26 possessed is two ounces or less but more than 0.35 ounces;

27 (3) [~~(2)~~] a Class A misdemeanor if the amount of

1 marihuana possessed is four ounces or less but more than two ounces;

2 (4) [~~(3)~~] a state jail felony if the amount of
3 marihuana possessed is five pounds or less but more than four
4 ounces;

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

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

10 (7) [~~(6)~~] punishable by imprisonment in the Texas
11 Department of Criminal Justice for life or for a term of not more
12 than 99 years or less than 5 years, and a fine not to exceed \$50,000,
13 if the amount of marihuana possessed is more than 2,000 pounds.

14 SECTION 4. Section [481.126\(a\)](#), Health and Safety Code, is
15 amended to read as follows:

16 (a) A person commits an offense if the person:

17 (1) barter property or expends funds the person knows
18 are derived from the commission of an offense under this chapter
19 punishable by imprisonment in the Texas Department of Criminal
20 Justice for life;

21 (2) barter property or expends funds the person knows
22 are derived from the commission of an offense under Section
23 [481.121\(a\)](#) that is punishable under Section [481.121\(b\)\(6\)](#)
24 [~~[481.121\(b\)\(5\)](#)~~];

25 (3) barter property or finances or invests funds the
26 person knows or believes are intended to further the commission of
27 an offense for which the punishment is described by Subdivision

1 (1); or

2 (4) barter property or finances or invests funds the
3 person knows or believes are intended to further the commission of
4 an offense under Section 481.121(a) that is punishable under
5 Section 481.121(b)(6) [~~481.121(b)(5)~~].

6 SECTION 5. Section 481.134, Health and Safety Code, is
7 amended by amending Subsections (c), (d), (e), (f), and (g) and
8 adding Subsection (f-1) to read as follows:

9 (c) The minimum term of confinement or imprisonment for an
10 offense otherwise punishable under Section 481.112(c), (d), (e), or
11 (f), 481.1121(b)(2), (3), or (4), 481.113(c), (d), or (e),
12 481.114(c), (d), or (e), 481.115(c)-(f), 481.1151(b)(2), (3), (4),
13 or (5), 481.116(c), (d), or (e), 481.1161(b)(4), (5), or (6),
14 481.117(c), (d), or (e), 481.118(c), (d), or (e), 481.120(b)(4),
15 (5), or (6), or 481.121(b)(5), (6), or (7) [~~481.121(b)(4), (5), or~~
16 ~~(6)~~] is increased by five years and the maximum fine for the offense
17 is doubled if it is shown on the trial of the offense that the
18 offense was committed:

19 (1) in, on, or within 1,000 feet of the premises of a
20 school, the premises of a public or private youth center, or a
21 playground; or

22 (2) on a school bus.

23 (d) An offense otherwise punishable under Section
24 481.112(b), 481.1121(b)(1), 481.113(b), 481.114(b), 481.115(b),
25 481.1151(b)(1), 481.116(b), 481.1161(b)(3), 481.120(b)(3), or
26 481.121(b)(4) [~~481.121(b)(3)~~] is a felony of the third degree if it
27 is shown on the trial of the offense that the offense was committed:

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

4 (2) on a school bus.

5 (e) An offense otherwise punishable under Section
6 [481.117\(b\)](#), [481.119\(a\)](#), [481.120\(b\)\(2\)](#), or [481.121\(b\)\(3\)](#)
7 [~~[481.121\(b\)\(2\)](#)~~] is a state jail felony if it is shown on the trial
8 of the offense that the offense was committed:

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

12 (2) on a school bus.

13 (f) An offense otherwise punishable under Section
14 [481.118\(b\)](#), [481.119\(b\)](#), [481.120\(b\)\(1\)](#), or [481.121\(b\)\(2\)](#)
15 [~~[481.121\(b\)\(1\)](#)~~] is a Class A misdemeanor if it is shown on the trial
16 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 (f-1) An offense otherwise punishable under Section
22 [481.121\(b\)\(1\)](#) is a Class B misdemeanor if it is shown on the trial
23 of the offense that the offense was committed:

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

27 (2) on a school bus.

1 (g) Subsections (f) and (f-1) do [~~Subsection (f) does~~] not
2 apply to an offense if:

3 (1) the offense was committed inside a private
4 residence; and

5 (2) no minor was present in the private residence at
6 the time the offense was committed.

7 SECTION 6. Section 12.43(c), Penal Code, is amended to read
8 as follows:

9 (c) If it is shown on the trial of an offense punishable as a
10 Class C misdemeanor under Section 42.01 or 49.02, or under Section
11 481.121(b)(1), Health and Safety Code, that the defendant has
12 previously been convicted of any [~~been before convicted under~~
13 ~~either~~] of those offenses [~~sections~~] three times or three times for
14 any combination of those offenses and each prior offense was
15 committed in the 24 months preceding the date of commission of the
16 instant offense, the defendant shall be punished by:

17 (1) a fine not to exceed \$2,000;

18 (2) confinement in jail for a term not to exceed 180
19 days; or

20 (3) both such fine and confinement.

21 SECTION 7. The amendments of Sections 481.121 and 481.134,
22 Health and Safety Code, by this Act apply to an offense committed
23 under Section 481.121 or an offense committed under Section 481.121
24 and punishable under Section 481.134, Health and Safety Code,
25 before, on, or after September 1, 2017, except that a final
26 conviction for an offense that exists on September 1, 2017, is
27 unaffected by this Act.

1 SECTION 8. This Act takes effect September 1, 2017.