

By: Dutton

H.B. No. 2940

A BILL TO BE ENTITLED

AN ACT

relating to citations and participation in pretrial diversion for  
misdemeanor possession of marihuana.

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

SECTION 1. Article 14.06, Code of Criminal Procedure, is  
amended by amending Subsection (d) and adding Subsections (e) and  
(f) to read as follows:

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

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

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

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

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

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

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

(6) Section 38.114, Penal Code, if the offense is

1 punishable as a Class B misdemeanor; or

2 (7) Section 521.457, Transportation Code.

3 (e) A peace officer who is charging a person with committing  
4 an offense under Section 481.121, Health and Safety Code, that is  
5 punishable under Subsection (b)(1) or (2) of that section shall,  
6 instead of taking the person before a magistrate, issue a citation  
7 to the person that contains written notice of the time and place the  
8 person must appear before a magistrate of this state as described by  
9 Subsection (a), the name and address of the person charged, and the  
10 offense charged. The time for appearance may not be before the  
11 seventh day after the issuance of the citation.

12 (f) A citation issued under Subsection (e) must contain in  
13 addition to the information required by Subsection (e) a written  
14 statement notifying the person that if the person contacts the  
15 magistrate in person or by telephone not later than 72 hours after  
16 the issuance of the citation, the person is entitled to participate  
17 in a substance abuse prevention course and on completion of the  
18 course is entitled to dismissal of the charge.

19 SECTION 2. Chapter 32, Code of Criminal Procedure, is  
20 amended by adding Article 32.03 to read as follows:

21 Art. 32.03. DISMISSAL FOR MISDEMEANOR MARIHUANA  
22 POSSESSION. (a) A person who receives a citation under Article  
23 14.06(e) and contacts the magistrate named in the citation within  
24 the period described by Subsection (f) of that article is entitled  
25 to a dismissal of the charge if the person provides to the  
26 magistrate not later than the 30th day after the issuance of the  
27 citation proof of completion of a substance abuse prevention course

1 described by Subsection (b).

2 (b) The Texas Department of Licensing and Regulation shall  
3 create a list of providers in each county in this state who provide  
4 a substance abuse prevention course that is appropriate for the  
5 purposes of this article. The department shall also create a list  
6 of Internet providers who provide appropriate courses. A course  
7 may be listed by the department only if the course does not exceed  
8 four hours in length.

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

17 SECTION 4. This Act takes effect September 1, 2017.