

By: Collier

H.B. No. 3841

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the punishment for possession of a small amount of a
3 substance in Penalty Group 1 under the Texas Controlled Substances
4 Act.

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

6 SECTION 1. Sections 481.115(b) and (c), Health and Safety
7 Code, are amended to read as follows:

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

12 (c) An offense under Subsection (a) is a state jail felony
13 [~~of the third degree~~] if the amount of the controlled substance
14 possessed is, by aggregate weight, including adulterants or
15 dilutants, one gram or more but less than four grams.

16 SECTION 2. Sections 481.134(c), (d), and (e), Health and
17 Safety Code, are amended to read as follows:

18 (c) The minimum term of confinement or imprisonment for an
19 offense otherwise punishable under Section 481.112(c), (d), (e), or
20 (f), 481.1121(b)(2), (3), or (4), 481.113(c), (d), or (e),
21 481.114(c), (d), or (e), 481.115(d), (e), or (f) [~~481.115(e)-(f)~~],
22 481.1151(b)(2), (3), (4), or (5), 481.116(c), (d), or (e),
23 481.1161(b)(4), (5), or (6), 481.117(c), (d), or (e), 481.118(c),
24 (d), or (e), 481.120(b)(4), (5), or (6), or 481.121(b)(4), (5), or

1 (6) is increased by five years and the maximum fine for the offense
2 is doubled if it is shown on the trial of the offense that the
3 offense was committed:

4 (1) in, on, or within 1,000 feet of the premises of a
5 school, the premises of a public or private youth center, or a
6 playground; or

7 (2) on a school bus.

8 (d) An offense otherwise punishable under Section
9 [481.112\(b\)](#), [481.1121\(b\)\(1\)](#), [481.113\(b\)](#), [481.114\(b\)](#), [481.115\(c\)](#)
10 [~~[481.115\(b\)](#)~~], [481.1151\(b\)\(1\)](#), [481.116\(b\)](#), [481.1161\(b\)\(3\)](#),
11 [481.120\(b\)\(3\)](#), or [481.121\(b\)\(3\)](#) is a felony of the third degree if
12 it is shown on the trial of the offense that the offense was
13 committed:

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

17 (2) on a school bus.

18 (e) An offense otherwise punishable under Section
19 [481.115\(b\)](#), [481.117\(b\)](#), [481.119\(a\)](#), [481.120\(b\)\(2\)](#), or
20 [481.121\(b\)\(2\)](#) is a state jail felony if it is shown on the trial of
21 the offense that the offense was committed:

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

25 (2) on a school bus.

26 SECTION 3. Article [42A.551\(a\)](#), Code of Criminal Procedure,
27 is amended to read as follows:

1 (a) Except as otherwise provided by Subsection (b) or (c),
2 on conviction of a state jail felony under Section 481.115(c)
3 [~~481.115(b)~~], 481.1151(b)(1), 481.116(b), 481.1161(b)(3),
4 481.121(b)(3), or 481.129(g)(1), Health and Safety Code, that is
5 punished under Section 12.35(a), Penal Code, the judge shall
6 suspend the imposition of the sentence and place the defendant on
7 community supervision.

8 SECTION 4. (a) Except as provided by Subsection (b) of this
9 section:

10 (1) the change in law made by this Act applies only to
11 an offense committed on or after the effective date of this Act; and

12 (2) an offense committed before the effective date of
13 this Act is governed by the law in effect on the date the offense was
14 committed, and the former law is continued in effect for that
15 purpose.

16 (b) In a criminal action pending on or commenced on or after
17 the effective date of this Act, for an offense under Section
18 481.115(b) or (c), Health and Safety Code, committed before the
19 effective date, the defendant, if adjudged guilty, shall be
20 assessed punishment under Section 481.115(b) or (c), Health and
21 Safety Code, as amended by this Act, if the defendant so elects by
22 written motion filed with the trial court before the sentencing
23 hearing begins.

24 (c) For purposes of this section, an offense was committed
25 before the effective date of this Act if any element of the offense
26 occurred before that date.

27 SECTION 5. This Act takes effect September 1, 2017.