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2019 APR 24 PM 3:20

HOUSE OF REPRESENTATIVES

Moody

FLOOR AMENDMENT NO. _____

BY: _____

1 Amend C.S.H.B. No. 63 (house committee printing) by striking
2 all below the enacting clause and substituting the following:

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

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

6 (1) a Class C misdemeanor if the amount of marihuana
7 possessed is one ounce or less;

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

10 (3) [~~2~~] a Class A misdemeanor if the amount of
11 marihuana possessed is four ounces or less but more than two ounces;

12 (4) [~~3~~] a state jail felony if the amount of
13 marihuana possessed is five pounds or less but more than four
14 ounces;

15 (5) [~~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 (6) [~~5~~] a felony of the second degree if the amount
18 of marihuana possessed is 2,000 pounds or less but more than 50
19 pounds; and

20 (7) [~~6~~] punishable by imprisonment in the Texas
21 Department of Criminal Justice for life or for a term of not more
22 than 99 years or less than 5 years, and a fine not to exceed \$50,000,
23 if the amount of marihuana possessed is more than 2,000 pounds.

24 SECTION 2. Section 481.126(a), Health and Safety Code, is
25 amended to read as follows:

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

27 (1) barter property or expends funds the person knows
28 are derived from the commission of an offense under this chapter
29 punishable by imprisonment in the Texas Department of Criminal

1 Justice for life;

2 (2) barter property or expend funds the person knows
3 are derived from the commission of an offense under Section
4 481.121(a) that is punishable under Section 481.121(b)(6)
5 ~~[481.121(b)(5)]~~;

6 (3) barter property or finances or invests funds the
7 person knows or believes are intended to further the commission of
8 an offense for which the punishment is described by Subdivision
9 (1); or

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

14 SECTION 3. Sections 481.134(c), (d), (e), and (f), Health
15 and Safety Code, are amended to read as follows:

16 (c) The minimum term of confinement or imprisonment for an
17 offense otherwise punishable under Section 481.112(c), (d), (e), or
18 (f), 481.1121(b)(2), (3), or (4), 481.113(c), (d), or (e),
19 481.114(c), (d), or (e), 481.115(c)-(f), 481.1151(b)(2), (3), (4),
20 or (5), 481.116(c), (d), or (e), 481.1161(b)(4), (5), or (6),
21 481.117(c), (d), or (e), 481.118(c), (d), or (e), 481.120(b)(4),
22 (5), or (6), or 481.121(b)(5), (6), or (7) ~~[481.121(b)(4), (5), or~~
23 ~~(6)]~~ is increased by five years and the maximum fine for the offense
24 is doubled if it is shown on the trial of the offense that the
25 offense was committed:

26 (1) in, on, or within 1,000 feet of the premises of a
27 school, the premises of a public or private youth center, or a
28 playground; or

29 (2) on a school bus.

30 (d) An offense otherwise punishable under Section
31 481.112(b), 481.1121(b)(1), 481.113(b), 481.114(b), 481.115(b),

1 481.1151(b)(1), 481.116(b), 481.1161(b)(3), 481.120(b)(3), or
2 481.121(b)(4) [~~481.121(b)(3)~~] is a felony of the third degree if it
3 is shown on the trial of the offense that the offense was committed:

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

7 (2) on a school bus.

8 (e) An offense otherwise punishable under Section
9 481.117(b), 481.119(a), 481.120(b)(2), or 481.121(b)(3)
10 [~~481.121(b)(2)~~] is a state jail felony if it is shown on the trial
11 of the offense that the offense was committed:

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

15 (2) on a school bus.

16 (f) An offense otherwise punishable under Section
17 481.118(b), 481.119(b), 481.120(b)(1), or 481.121(b)(2)
18 [~~481.121(b)(1)~~] is a Class A misdemeanor if it is shown on the trial
19 of the offense that the offense was committed:

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

23 (2) on a school bus.

24 SECTION 4. Article 14.06, Code of Criminal Procedure, is
25 amended by adding Subsection (b-1) and amending Subsection (d) to
26 read as follows:

27 (b-1) A peace officer who is charging a person with
28 committing an offense under Section 481.121(b)(1) or 481.125(a),
29 Health and Safety Code, may not arrest the person and shall issue
30 the person a citation as provided by Subsection (b).

31 (d) Subsection (c) applies only to a person charged with

1 committing an offense under:

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

5 (1-a) Section 481.1161, Health and Safety Code, if the
6 offense is punishable under Subsection (b)(1) or (2) of that
7 section;

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

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

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

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

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

18 (7) Section 521.457, Transportation Code.

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

21 (a) Except as otherwise provided by Subsection (b) or (c),
22 on conviction of a state jail felony under Section 481.115(b),
23 481.1151(b)(1), 481.116(b), 481.1161(b)(3), 481.121(b)(4)
24 [~~481.121(b)(3)~~], or 481.129(g)(1), Health and Safety Code, that is
25 punished under Section 12.35(a), Penal Code, the judge shall
26 suspend the imposition of the sentence and place the defendant on
27 community supervision.

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

29 (1) under Section 481.1151(b)(1), Health and Safety
30 Code, possessed more than five abuse units of the controlled
31 substance;

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

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

6 SECTION 6. Article 45.051, Code of Criminal Procedure, is
7 amended by adding Subsections (a-2) and (e-1) to read as follows:

8 (a-2) Unless the defendant has previously received a
9 deferral of disposition for an offense under Section 481.121(b)(1)
10 or 481.125(a), Health and Safety Code, committed within the
11 12-month period preceding the date of the commission of the instant
12 offense, on plea of guilty or nolo contendere for either offense,
13 the judge shall defer further proceedings without entering an
14 adjudication of guilt and place the defendant on probation under
15 the provisions of this article.

16 (e-1) Regardless of whether the person has filed a petition
17 for expunction, a court that dismisses a complaint under this
18 article for a person charged with an offense under Section
19 481.121(b)(1) or 481.125(a), Health and Safety Code, shall order
20 all documents relating to the offense to be expunged from the
21 person's record. The dismissed complaint is not a conviction and
22 may not be used against the person for any purpose.

23 SECTION 7. Section 411.0728(a), Government Code, is amended
24 to read as follows:

25 (a) This section applies only to a person:

26 (1) who is placed on community supervision under
27 Chapter 42A, Code of Criminal Procedure, after conviction for an
28 offense under:

29 (A) Section 481.120, Health and Safety Code, if
30 the offense is punishable under Subsection (b)(1);

31 (B) Section 481.121, Health and Safety Code, if

1 the offense is punishable under Subsection (b)(2) [~~(b)(1)~~];

2 (C) Section 31.03, Penal Code, if the offense is
3 punishable under Subsection (e)(1) or (2);

4 (D) Section 43.02, Penal Code; or

5 (E) Section 43.03(a)(2), Penal Code, if the
6 offense is punishable as a Class A misdemeanor; and

7 (2) with respect to whom the conviction is
8 subsequently set aside by the court under Article 42A.701, Code of
9 Criminal Procedure.

10 SECTION 8. Section 521.371(3), Transportation Code, is
11 amended to read as follows:

12 (3) "Drug offense" has the meaning assigned under 23
13 U.S.C. Section 159(c) and includes an offense under Section 49.04,
14 49.07, or 49.08, Penal Code, that is committed as a result of the
15 introduction into the body of any substance the possession of which
16 is prohibited under the Controlled Substances Act. The term does
17 not include an offense punishable by fine only under the laws of
18 this state.

19 SECTION 9. The changes in law made by this Act apply only to
20 an offense committed on or after the effective date of this Act. An
21 offense committed before the effective date of this Act is governed
22 by the law in effect on the date the offense was committed, and the
23 former law is continued in effect for that purpose. For purposes of
24 this section, an offense was committed before the effective date of
25 this Act if any element of the offense was committed before that
26 date.

27 SECTION 10. (a) Except as otherwise provided by this
28 section, this Act takes effect September 1, 2019.

29 (b) Section 521.371, Transportation Code, as amended by
30 this Act, takes effect on the 91st day after the date the office of
31 the attorney general publishes in the Texas Register a finding

1 that:

2 (1) the legislature of this state has adopted a
3 resolution expressing the legislature's opposition to a law meeting
4 the requirements of 23 U.S.C. Section 159 in suspending, revoking,
5 or denying the driver's license of a person convicted of a drug
6 offense punishable by fine only for a period of six months;

7 (2) the governor of this state has submitted to the
8 United States secretary of transportation:

9 (A) a written certification of the governor's
10 opposition to the enactment or enforcement of a law required under
11 23 U.S.C. Section 159 as that law relates to offenses punishable by
12 fine only; and

13 (B) a written certification that the legislature
14 has adopted the resolution described by Subdivision (1) of this
15 subsection; and

16 (3) the United States secretary of transportation has
17 responded to the governor's submission and certified that highway
18 funds will not be withheld from this state in response to the
19 partial repeal of the law required under 23 U.S.C. Section 159.