

Amend CSHB 63 (house committee printing) by striking all below the enacting clause and substituting the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) barter property or finances or invests funds the person knows or believes are intended to further the commission of

an offense for which the punishment is described by Subdivision (1); or

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

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

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

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

(2) on a school bus.

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

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

(2) on a school bus.

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

(1) in, on, or within 1,000 feet of any real property that is owned, rented, or leased to a school or school board, the

premises of a public or private youth center, or a playground; or

(2) on a school bus.

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

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

(2) on a school bus.

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

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

(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)(2) or (3) [~~(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 punishable as a Class B misdemeanor; or

(7) Section 521.457, Transportation Code.

SECTION 5. Articles 42A.551(a) and (c), Code of Criminal

Procedure, are amended to read as follows:

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

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

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

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

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

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

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

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

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

(a) This section applies only to a person:

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

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

(B) Section 481.121, Health and Safety Code, if the offense is punishable under Subsection (b)(2) [~~(b)(1)~~];

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

(D) Section 43.02, Penal Code; or

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

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

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

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

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

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

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

that:

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

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

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

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

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