

BILL ANALYSIS

C.S.H.B. 335
By: Dutton
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerns have been raised that it is unjust, unfair, and not cost-effective to incarcerate Texans for minor drug offenses, such as the possession of marihuana. C.S.H.B. 335 seeks to address this issue by providing for a graduated punishment regime for the possession of smaller amounts of marihuana.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 335 amends the Health and Safety Code to decrease the penalty for the possession of two grams or less of marihuana from a Class B misdemeanor to a Class C misdemeanor. The bill enhances the penalty for that offense to a Class B misdemeanor if it is shown on the trial of the offense that the defendant has been previously convicted three or more times of an offense involving the possession of marihuana under state law or under the laws of another state that contains elements substantially similar to the elements of the offense under state law and each prior offense was committed within the 24-month period preceding the date of the commission of the instant offense. The bill enhances the Class B misdemeanor offense to a Class A misdemeanor if it is shown on the trial of the offense that the offense was committed on a school bus or 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.

C.S.H.B. 335 amends the Code of Criminal Procedure to include a person charged with the Class B misdemeanor offense for the previous conviction three or more times of an offense involving the possession of marihuana among the persons to whom a peace officer may issue a citation containing notice to appear instead of taking the person before a magistrate. The bill requires a judge to require a defendant who is charged with possession of marihuana and who is granted a deferral on a plea of guilty or nolo contendere or on a finding of guilt in a misdemeanor case punishable by fine only and payment of all court costs to successfully complete a drug abuse awareness and education program approved by the Texas Department of Licensing and Regulation.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 335 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute reduces the amount of marihuana possessed that constitutes the decreased Class C misdemeanor offense from one ounce or less to two grams or less. The substitute does not include a provision making a defendant convicted of an enhanced Class B misdemeanor for that offense ineligible for community supervision.

The substitute changes the agency that approves the drug abuse awareness and education program for certain defendants charged with possession of marihuana from the Department of State Health Services to the Texas Department of Licensing and Regulation.