86R25478 JSC-D

By:  Toth, Moody, Canales, Miller, Dutton, H.B. No. 2518

     et al.

Substitute the following for H.B. No. 2518:

By:  González of Dallas C.S.H.B. No. 2518

A BILL TO BE ENTITLED

AN ACT

relating to the possession of two ounces or less of marihuana.

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

SECTION 1.  Article 14.01, Code of Criminal Procedure, is amended by adding Subsection (c) to read as follows:

(c)  Notwithstanding Subsection (a) or (b), a peace officer or any other person may not, without a warrant, arrest an offender for a misdemeanor punishable by fine only under Section 481.121(b)(1), Health and Safety Code.

SECTION 2.  Article 14.03, Code of Criminal Procedure, is amended by adding Subsection (h) to read as follows:

(h)  Notwithstanding Subsection (a), (d), or (g), a peace officer may not, without a warrant, arrest a person who only commits an offense punishable by fine only under Section 481.121(b)(1), Health and Safety Code.

SECTION 3.  Article 14.06(d), Code of Criminal Procedure, is amended 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)(2) [~~(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 4.  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 [~~B~~] misdemeanor if the amount of marihuana possessed is two ounces or less;

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

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

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

(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

(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 5.  Section 481.134(f), Health and Safety Code, is amended to read as follows:

(f)  An offense otherwise punishable under Section 481.118(b), 481.119(b), or 481.120(b)(1)[~~, or 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 6.  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)(1);~~

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

(C) [~~(D)~~]  Section 43.02, Penal Code; or

(D) [~~(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 7.  Section 521.372, Transportation Code, is amended by adding Subsection (d) to read as follows:

(d)  Notwithstanding Subsection (a), a person's license is not automatically suspended on conviction of an offense punishable by fine only under Section 481.121(b)(1), Health and Safety Code. Notwithstanding Subsection (b), the department is not prohibited from issuing a driver's license to a person convicted of an offense punishable by fine only under Section 481.121(b)(1), Health and Safety Code, who, on the date of the conviction, did not hold a driver's license.

SECTION 8.  Articles 14.01(c) and 14.03(h), Code of Criminal Procedure, as added 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 occurred before that date.

SECTION 9.  Sections 481.121 and 481.134, Health and Safety Code, as amended by this Act, apply to an offense committed under Section 481.121 or an offense committed under Section 481.121 and punishable under Section 481.134 before, on, or after September 1, 2019, except that a final conviction for an offense that exists on September 1, 2019, is unaffected by this Act.

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

(b)  Section 521.372(d), Transportation Code, as added 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 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; 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 any modification to or repeal of the law required under 23 U.S.C. Section 159.