

By: Canales

H.B. No. 186

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the determination of the weight of marihuana and other
3 tetrahydrocannabinols for the purpose of the prosecution and
4 punishment of the offense of possession of those substances.

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

6 SECTION 1. Section 481.116, Health and Safety Code, is
7 amended by amending Subsections (b), (c), (d), and (e) and adding
8 Subsections (f) and (g) to read as follows:

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

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

17 (d) An offense under Subsection (a) is a felony of the
18 second degree if the amount of the controlled substance possessed
19 is~~[, by aggregate weight, including adulterants or dilutants,~~] four
20 grams or more but less than 400 grams.

21 (e) An offense under Subsection (a) is punishable by
22 imprisonment in the Texas Department of Criminal Justice for life
23 or for a term of not more than 99 years or less than five years, and
24 a fine not to exceed \$50,000, if the amount of the controlled

1 substance possessed is ~~[, by aggregate weight, including~~
2 ~~adulterants or dilutants,~~] 400 grams or more.

3 (f) For purposes of the prosecution of an offense under this
4 section, the amount of the controlled substance possessed:

5 (1) for a tetrahydrocannabinol other than marihuana,
6 is the weight of the controlled substance, excluding adulterants or
7 dilutants; and

8 (2) for any other substance listed in Penalty Group 2,
9 is the aggregate weight of the substance, including adulterants or
10 dilutants.

11 (g) The director shall adopt rules for determining the
12 amount of tetrahydrocannabinol other than marihuana in a product
13 that contains a combination of a tetrahydrocannabinol other than
14 marihuana and adulterants or dilutants.

15 SECTION 2. Section 481.121, Health and Safety Code, is
16 amended by adding Subsections (c) and (d) to read as follows:

17 (c) For purposes of the prosecution of an offense under this
18 section, the amount of marihuana possessed is the weight of the
19 marihuana, excluding adulterants or dilutants.

20 (d) The director shall adopt rules for determining the
21 amount of marihuana in a product that contains a combination of
22 marihuana and adulterants or dilutants.

23 SECTION 3. (a) Except as provided by Subsection (b) of this
24 section:

25 (1) the changes in law made by this Act apply only to
26 an offense committed on or after the effective date of this Act; and

27 (2) an offense committed before the effective date of

1 this Act is governed by the law in effect on the date the offense was
2 committed, and the former law is continued in effect for that
3 purpose.

4 (b) In a criminal action pending on or commenced on or after
5 the effective date of this Act, for an offense committed before the
6 effective date, the defendant, if adjudged guilty, shall be
7 assessed punishment under Section [481.116](#) or [481.121](#), Health and
8 Safety Code, as amended by this Act, as applicable, if the defendant
9 so elects by written motion filed with the trial court before the
10 sentencing hearing begins.

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

14 SECTION 4. This Act takes effect September 1, 2019.