

By: Dutton, Reynolds, Thompson of Harris

H.B. No. 335

Substitute the following for H.B. No. 335:

By: Collier

C.S.H.B. No. 335

A BILL TO BE ENTITLED

1

AN ACT

2 relating to the criminal penalties for possession of two grams or  
3 less of marihuana.

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

5 SECTION 1. Section 481.121, Health and Safety Code, is  
6 amended by amending Subsection (b) and adding Subsection (c) to  
7 read as follows:

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

9 (1) a Class C misdemeanor if the amount of marihuana  
10 possessed is two grams or less, except as provided by Subsection  
11 (c);

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

14 (3) [~~2~~] a Class A misdemeanor if the amount of  
15 marihuana possessed is four ounces or less but more than two ounces;

16 (4) [~~3~~] a state jail felony if the amount of  
17 marihuana possessed is five pounds or less but more than four  
18 ounces;

19 (5) [~~4~~] a felony of the third degree if the amount of  
20 marihuana possessed is 50 pounds or less but more than 5 pounds;

21 (6) [~~5~~] a felony of the second degree if the amount  
22 of marihuana possessed is 2,000 pounds or less but more than 50  
23 pounds; and

24 (7) [~~6~~] punishable by imprisonment in the Texas

1 Department of Criminal Justice for life or for a term of not more  
2 than 99 years or less than 5 years, and a fine not to exceed \$50,000,  
3 if the amount of marihuana possessed is more than 2,000 pounds.

4 (c) An offense under Subsection (b)(1) is a Class B  
5 misdemeanor if it is shown on the trial of the offense that the  
6 defendant has been previously convicted three or more times of an  
7 offense involving the possession of marihuana and each prior  
8 offense was committed within the 24-month period preceding the date  
9 of the commission of the instant offense. For purposes of this  
10 subsection, "offense involving the possession of marihuana" means  
11 an offense under this section or an offense under the laws of  
12 another state that contains elements substantially similar to the  
13 elements of an offense under this section.

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

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

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

21 (2) barter property or expends funds the person knows  
22 are derived from the commission of an offense under Section  
23 481.121(a) that is punishable under Section 481.121(b)(6)  
24 [~~481.121(b)(5)~~];

25 (3) barter property or finances or invests funds the  
26 person knows or believes are intended to further the commission of  
27 an offense for which the punishment is described by Subdivision

1 (1); or

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

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

8 (c) The minimum term of confinement or imprisonment for an  
9 offense otherwise punishable under Section 481.112(c), (d), (e), or  
10 (f), 481.1121(b)(2), (3), or (4), 481.113(c), (d), or (e),  
11 481.114(c), (d), or (e), 481.115(c)-(f), 481.1151(b)(2), (3), (4),  
12 or (5), 481.116(c), (d), or (e), 481.1161(b)(4), (5), or (6),  
13 481.117(c), (d), or (e), 481.118(c), (d), or (e), 481.120(b)(4),  
14 (5), or (6), or 481.121(b)(5), (6), or (7) [~~481.121(b)(4), (5), or~~  
15 ~~(6)~~] is increased by five years and the maximum fine for the offense  
16 is doubled if it is shown on the trial of the offense that the  
17 offense was committed:

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

21 (2) on a school bus.

22 (d) An offense otherwise punishable under Section  
23 481.112(b), 481.1121(b)(1), 481.113(b), 481.114(b), 481.115(b),  
24 481.1151(b)(1), 481.116(b), 481.1161(b)(3), 481.120(b)(3), or  
25 481.121(b)(4) [~~481.121(b)(3)~~] is a felony of the third degree if it  
26 is shown on the trial of the offense that the offense was committed:

27 (1) in, on, or within 1,000 feet of any real property

1 that is owned, rented, or leased to a school or school board, the  
2 premises of a public or private youth center, or a playground; or

3 (2) on a school bus.

4 (e) An offense otherwise punishable under Section  
5 [481.117\(b\)](#), [481.119\(a\)](#), [481.120\(b\)\(2\)](#), or [481.121\(b\)\(3\)](#)  
6 [~~[481.121\(b\)\(2\)](#)~~] is a state jail felony if it is shown on the trial  
7 of the offense that the offense was committed:

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

11 (2) on a school bus.

12 (f) An offense otherwise punishable under Section  
13 [481.118\(b\)](#), [481.119\(b\)](#), [481.120\(b\)\(1\)](#), or [481.121\(b\)\(1\)](#), (b)(2),  
14 or (c) is a Class A misdemeanor if it is shown on the trial of the  
15 offense that the offense was committed:

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

19 (2) on a school bus.

20 SECTION 4. Article [14.06\(d\)](#), Code of Criminal Procedure, is  
21 amended to read as follows:

22 (d) Subsection (c) applies only to a person charged with  
23 committing an offense under:

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

27 (1-a) Section [481.1161](#), Health and Safety Code, if the

1 offense is punishable under Subsection (b)(1) or (2) of that  
2 section;

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

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

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

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

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

13 (7) Section 521.457, Transportation Code.

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

16 (a) Except as otherwise provided by Subsection (b) or (c),  
17 on conviction of a state jail felony under Section 481.115(b),  
18 481.1151(b)(1), 481.116(b), 481.1161(b)(3), 481.121(b)(4)  
19 [~~481.121(b)(3)~~], or 481.129(g)(1), Health and Safety Code, that is  
20 punished under Section 12.35(a), Penal Code, the judge shall  
21 suspend the imposition of the sentence and place the defendant on  
22 community supervision.

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

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

27 (2) under Section 481.1161(b)(3), Health and Safety

1 Code, possessed more than one pound, by aggregate weight, including  
2 adulterants or dilutants, of the controlled substance; or

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

5 SECTION 6. Article 45.051, Code of Criminal Procedure, is  
6 amended by adding Subsection (h) to read as follows:

7 (h) This subsection applies only to a defendant charged with  
8 an offense under Section 481.121, Health and Safety Code, who is  
9 granted a deferral under Subsection (a). In addition to any other  
10 requirement, the judge shall, during the deferral period, require  
11 that the defendant successfully complete a drug abuse awareness and  
12 education program approved by the Texas Department of Licensing and  
13 Regulation.

14 SECTION 7. The changes in law made by this Act apply only to  
15 an offense committed on or after the effective date of this Act. An  
16 offense committed before the effective date of this Act is governed  
17 by the law in effect on the date the offense was committed, and the  
18 former law is continued in effect for that purpose. For purposes of  
19 this section, an offense was committed before the effective date of  
20 this Act if any element of the offense was committed before that  
21 date.

22 SECTION 8. This Act takes effect September 1, 2019.