

By: Cole

H.B. No. 1206

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the prosecution of and penalties for possession of  
3 marihuana.

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

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

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

8 (1) a Class C [~~B~~] misdemeanor if the amount of  
9 marihuana possessed is two ounces or less;

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

12 (3) a Class A misdemeanor [~~state jail felony~~] if the  
13 amount of marihuana possessed is five pounds or less but more than  
14 four ounces;

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

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

21 (6) a felony of the second degree [~~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 5 years, and a~~  
24 ~~fine not to exceed \$50,000,~~] if the amount of marihuana possessed is

1 more than 2,000 pounds.

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

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

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

9 (2) barter property or expends funds the person knows  
10 are derived from the commission of an offense under Section  
11 481.121(a) that is punishable under Section 481.121(b)(6)  
12 [~~481.121(b)(5)~~];

13 (3) barter property or finances or invests funds the  
14 person knows or believes are intended to further the commission of  
15 an offense for which the punishment is described by Subdivision  
16 (1); or

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

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

23 (c) The minimum term of confinement or imprisonment for an  
24 offense otherwise punishable under Section 481.112(c), (d), (e), or  
25 (f), 481.1121(b)(2), (3), or (4), 481.113(c), (d), or (e),  
26 481.114(c), (d), or (e), 481.115(c)-(f), 481.1151(b)(2), (3), (4),  
27 or (5), 481.116(c), (d), or (e), 481.1161(b)(4), (5), or (6),

1 481.117(c), (d), or (e), 481.118(c), (d), or (e), 481.120(b)(4),  
2 (5), or (6), or 481.121(b)(5) or (6) [~~481.121(b)(4), (5), or (6)~~] is  
3 increased by five years and the maximum fine for the offense is  
4 doubled if it is shown on the trial of the offense that the offense  
5 was committed:

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

9 (2) on a school bus.

10 (d) An offense otherwise punishable under Section  
11 481.112(b), 481.1121(b)(1), 481.113(b), 481.114(b), 481.115(b),  
12 481.1151(b)(1), 481.116(b), 481.1161(b)(3), 481.120(b)(3), or  
13 481.121(b)(4) [~~481.121(b)(3)~~] is a felony of the third degree if it  
14 is shown on the trial of the offense that the offense was committed:

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

18 (2) on a school bus.

19 (e) An offense otherwise punishable under Section  
20 481.117(b), 481.119(a), 481.120(b)(2), or 481.121(b)(3)  
21 [~~481.121(b)(2)~~] is a state jail felony if it is shown on the trial  
22 of the offense that the offense was committed:

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

26 (2) on a school bus.

27 (f) An offense otherwise punishable under Section

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

- 4 (1) in, on, or within 1,000 feet of any real property  
5 that is owned, rented, or leased to a school or school board, the  
6 premises of a public or private youth center, or a playground; or  
7 (2) on a school bus.

8 SECTION 4. Article 14.06(d), Code of Criminal Procedure, is  
9 amended to read as follows:

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

12 (1) Section 481.121, Health and Safety Code, if the  
13 offense is punishable under Subsection (b)(2) or (3) [~~(b)(1) or~~  
14 ~~(2)~~] of that section;

15 (1-a) Section 481.1161, Health and Safety Code, if the  
16 offense is punishable under Subsection (b)(1) or (2) of that  
17 section;

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

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

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

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

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

1 (7) Section 521.457, Transportation Code.

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

4 (a) Except as otherwise provided by Subsection (b) or (c),  
5 on conviction of a state jail felony under Section 481.115(b),  
6 481.1151(b)(1), 481.116(b), 481.1161(b)(3), 481.121(b)(4)  
7 [~~481.121(b)(3)~~], or 481.129(g)(1), Health and Safety Code, that is  
8 punished under Section 12.35(a), Penal Code, the judge shall  
9 suspend the imposition of the sentence and place the defendant on  
10 community supervision.

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

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

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

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

20 SECTION 6. Section 411.0728(a), Government Code, is amended  
21 to read as follows:

22 (a) This section applies only to a person:

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

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

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

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

5 (D) Section 43.02, Penal Code; or

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

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

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

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