

By: Thompson of Harris

H.B. No. 1719

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the penalties for the possession of small amounts of
3 Penalty Group 1 controlled substances and marihuana.

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

5 SECTION 1. Article 14.06(d), Code of Criminal Procedure, is
6 amended to read as follows:

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

9 (1) Section 481.121, Health and Safety Code, if the
10 offense is punishable under Subsection (b)(2) [~~(b)(1) or (2)~~] of
11 that section;

12 (1-a) Section 481.1161, Health and Safety Code, if the
13 offense is punishable under Subsection (b)(1) or (2) of that
14 section;

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

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

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

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

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

1 (7) Section 521.457, Transportation Code.

2 SECTION 2. Section 481.115(b), Health and Safety Code, is
3 amended to read as follows:

4 (b) An offense under Subsection (a) is a Class A misdemeanor
5 [~~state jail felony~~] if the amount of the controlled substance
6 possessed is, by aggregate weight, including adulterants or
7 dilutants, less than one gram.

8 SECTION 3. Section 481.121(b), Health and Safety Code, is
9 amended to read as follows:

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

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

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

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

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

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

21 and

22 (6) punishable by imprisonment in the Texas Department
23 of Criminal Justice for life or for a term of not more than 99 years
24 or less than 5 years, and a fine not to exceed \$50,000, if the amount
25 of marihuana possessed is more than 2,000 pounds.

26 SECTION 4. Sections 481.134(d), (e), and (f), Health and
27 Safety Code, are amended to read as follows:

1 (d) An offense otherwise punishable under Section
2 481.112(b), 481.1121(b)(1), 481.113(b), 481.114(b), [~~481.115(b)~~],
3 481.1151(b)(1), 481.116(b), 481.1161(b)(3), 481.120(b)(3), or
4 481.121(b)(3) is a felony of the third degree if it is shown on the
5 trial of the offense that the offense was committed:

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

9 (2) on a school bus.

10 (e) An offense otherwise punishable under Section
11 481.115(b), 481.117(b), 481.119(a), 481.120(b)(2), or
12 481.121(b)(2) is a state jail felony if it is shown on the trial of
13 the offense that the offense was committed:

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

17 (2) on a school bus.

18 (f) An offense otherwise punishable under Section
19 481.118(b), 481.119(b), or 481.120(b)(1) [~~or 481.121(b)(1)~~] is a
20 Class A misdemeanor if it is shown on the trial of the offense that
21 the offense was committed:

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

25 (2) on a school bus.

26 SECTION 5. Article 42A.551(a), Code of Criminal Procedure,
27 is amended to read as follows:

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

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

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

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

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

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

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

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

21 (D) [~~(E)~~] Section 43.03(a)(2), Penal Code, if
22 the offense is punishable as a Class A misdemeanor; and

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

26 SECTION 7. The change in law made by this Act applies only
27 to an offense committed on or after the effective date of this Act.

1 An offense committed before the effective date of this Act is
2 governed by the law in effect on the date the offense was committed,
3 and the former law is continued in effect for that purpose. For
4 purposes of this section, an offense was committed before the
5 effective date of this Act if any element of the offense occurred
6 before that date.

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