

By: Toth, Moody, Canales, Miller, Dutton,  
et al.

H.B. No. 2518

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

1 section;

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

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

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

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

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

12 (7) Section 521.457, Transportation Code.

13 SECTION 4. Section 481.121(b), Health and Safety Code, is  
14 amended to read as follows:

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

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

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

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

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

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

26 and

27 (6) punishable by imprisonment in the Texas Department

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

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

6 (f) An offense otherwise punishable under Section  
7 481.118(b), 481.119(b), or 481.120(b)(1) [~~, or 481.121(b)(1)~~] is a  
8 Class A misdemeanor if it is shown on the trial of the offense that  
9 the offense was committed:

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

13 (2) on a school bus.

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

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

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

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

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

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

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

27 (D) [~~(E)~~] Section 43.03(a)(2), Penal Code, if

1 the offense is punishable as a Class A misdemeanor; and

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

5 SECTION 7. Section 521.372, Transportation Code, is amended  
6 by adding Subsection (d) to read as follows:

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

15 SECTION 8. Articles 14.01(c) and 14.03(h), Code of Criminal  
16 Procedure, as added by this Act, apply only to an offense committed  
17 on or after the effective date of this Act. An offense committed  
18 before the effective date of this Act is governed by the law in  
19 effect on the date the offense was committed, and the former law is  
20 continued in effect for that purpose. For purposes of this section,  
21 an offense was committed before the effective date of this Act if  
22 any element of the offense occurred before that date.

23 SECTION 9. Sections 481.121 and 481.134, Health and Safety  
24 Code, as amended by this Act, apply to an offense committed under  
25 Section 481.121 or an offense committed under Section 481.121 and  
26 punishable under Section 481.134 before, on, or after September 1,  
27 2019, except that a final conviction for an offense that exists on

1 September 1, 2019, is unaffected by this Act.

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

4 (b) Section 521.372(d), Transportation Code, as added by  
5 this Act, takes effect on the 91st day after the date the office of  
6 the attorney general publishes in the Texas Register a finding  
7 that:

8 (1) the legislature of this state has adopted a  
9 resolution expressing the legislature's opposition to a law meeting  
10 the requirements of 23 U.S.C. Section 159 in suspending, revoking,  
11 or denying the driver's license of a person convicted of a drug  
12 offense for a period of six months;

13 (2) the governor of this state has submitted to the  
14 United States secretary of transportation:

15 (A) a written certification of the governor's  
16 opposition to the enactment or enforcement of a law required under  
17 23 U.S.C. Section 159; and

18 (B) a written certification that the legislature  
19 has adopted the resolution described by Subdivision (1) of this  
20 subsection; and

21 (3) the United States secretary of transportation has  
22 responded to the governor's submission and certified that highway  
23 funds will not be withheld from this state in response to any  
24 modification to or repeal of the law required under 23 U.S.C.  
25 Section 159.