

By: Johnson

S.B. No. 460

A BILL TO BE ENTITLED

AN ACT

1
2 relating to reducing criminal 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 B misdemeanor if the amount of marihuana
9 possessed is four [~~two~~] ounces or less but more than two ounces;

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

13 (3) a state jail felony if the amount of marihuana
14 possessed is 50 [~~five~~] pounds or less but more than 5 pounds [~~four~~
15 ~~ounces~~];

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

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~~
21 ~~pounds, and~~

22 [~~(6) punishable by imprisonment in the Texas~~
23 ~~Department of Criminal Justice for life or for a term of not more~~
24 ~~than 99 years or less than 5 years, and a fine not to exceed \$50,000,~~

1 ~~if the amount of marihuana possessed is]~~ more than 2,000 pounds.

2 SECTION 2. Section 481.125, Health and Safety Code, is
3 amended by adding Subsection (a-1) to read as follows:

4 (a-1) It is an affirmative defense to prosecution under
5 Subsection (a) that the person possessed or used the drug
6 paraphernalia solely in conjunction with the possession or use of
7 two ounces or less of marihuana.

8 SECTION 3. Section 481.134(c), Health and Safety Code, is
9 amended to read as follows:

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

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

22 (2) on a school bus.

23 SECTION 4. Article 42A.551(c), Code of Criminal Procedure,
24 is amended to read as follows:

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

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

1 substance; or

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

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

7 SECTION 5. The amendments of Sections 481.121, 481.125, and
8 481.134, Health and Safety Code, by this Act apply to an offense
9 committed under Section 481.121 or 481.125, Health and Safety Code,
10 or an offense committed under Section 481.121 and punishable under
11 Section 481.134, Health and Safety Code, before, on, or after
12 September 1, 2019, except that a final conviction for an offense
13 that exists on September 1, 2019, is unaffected by this Act.

14 SECTION 6. This Act takes effect September 1, 2019.