

By: Toth, Guillen

H.B. No. 99

Substitute the following for H.B. No. 99:

By: Crockett

C.S.H.B. No. 99

A BILL TO BE ENTITLED

AN ACT

relating to the possession of two ounces or less of marihuana;
authorizing a fee.

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

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 4. Article 45.051, Code of Criminal Procedure, is
15 amended by adding Subsection (a-2) to read as follows:

16 (a-2) Unless the defendant has previously received a
17 deferral of disposition for an offense under Section 481.121(b)(1)
18 or 481.125(a), Health and Safety Code, committed within the
19 12-month period preceding the date of the commission of the instant
20 offense, on plea of guilty or nolo contendere for either offense,
21 the judge shall defer further proceedings without entering an
22 adjudication of guilt and place the defendant on probation under
23 the provisions of this article.

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

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

27 (1) a Class C [~~B~~] misdemeanor if the amount of

1 marihuana possessed is two ounces or less;

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

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

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

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

10 and

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

15 SECTION 6. Section 481.134(f), Health and Safety Code, is
16 amended to read as follows:

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

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

24 (2) on a school bus.

25 SECTION 7. Section 411.0728(a), Government Code, is amended
26 to read as follows:

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

1 (1) who is convicted of or placed on deferred
2 adjudication community supervision for an offense under:

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

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

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

9 (C) ~~[(D)]~~ Section 43.02, Penal Code; and

10 (2) who, if requested by the applicable law
11 enforcement agency or prosecuting attorney to provide assistance in
12 the investigation or prosecution of an offense under Section
13 20A.02, 20A.03, or 43.05, Penal Code, or a federal offense
14 containing elements that are substantially similar to the elements
15 of an offense under any of those sections:

16 (A) provided assistance in the investigation or
17 prosecution of the offense; or

18 (B) did not provide assistance in the
19 investigation or prosecution of the offense due to the person's age
20 or a physical or mental disability resulting from being a victim of
21 an offense described by this subdivision.

22 SECTION 8. Section 521.372, Transportation Code, is amended
23 by amending Subsections (a) and (b) and adding Subsections (d) and
24 (e) to read as follows:

25 (a) Except as otherwise provided by Subsection (d), a [A]
26 person's driver's license is automatically suspended on final
27 conviction of:

- 1 (1) an offense under the Controlled Substances Act;
2 (2) a drug offense; or
3 (3) a felony under Chapter 481, Health and Safety
4 Code, that is not a drug offense.

5 (b) Except as provided by Subsection (e), the [The]
6 department may not issue a driver's license to a person convicted of
7 an offense specified in Subsection (a) who, on the date of the
8 conviction, did not hold a driver's license.

9 (d) The license of a person convicted of an offense
10 punishable by fine only under Section 481.121(b)(1), Health and
11 Safety Code, is not automatically suspended under this section. A
12 person described by this subsection shall pay a fee in an amount
13 that is equivalent to the sum of all fees applicable to a suspension
14 and reinstatement of a license under this subchapter.

15 (e) The department is not prohibited from issuing a driver's
16 license to a person convicted of an offense punishable by fine only
17 under Section 481.121(b)(1), Health and Safety Code, who, on the
18 date of the conviction, did not hold a driver's license.

19 SECTION 9. Articles 14.01(c) and 14.03(h), Code of Criminal
20 Procedure, as added by this Act, apply only to an offense committed
21 on or after the effective date of this Act. An offense committed
22 before the effective date of this Act is governed by the law in
23 effect on the date the offense was committed, and the former law is
24 continued in effect for that purpose. For purposes of this section,
25 an offense was committed before the effective date of this Act if
26 any element of the offense occurred before that date.

27 SECTION 10. Article 45.051(a-2), Code of Criminal

1 Procedure, as added by this Act, applies only to an offense
2 committed on or after the effective date of this Act. An offense
3 committed before the effective date of this Act is governed by the
4 law in effect on the date the offense was committed, and the former
5 law is continued in effect for that purpose. For purposes of this
6 section, an offense was committed before the effective date of this
7 Act if any element of the offense was committed before that date.

8 SECTION 11. Sections 481.121 and 481.134, Health and Safety
9 Code, as amended by this Act, apply to an offense committed under
10 Section 481.121 or an offense committed under Section 481.121 and
11 punishable under Section 481.134 before, on, or after September 1,
12 2021, except that a final conviction for an offense that exists on
13 September 1, 2021, is unaffected by this Act.

14 SECTION 12. (a) Except as provided by Subsection (b) of
15 this section, this Act takes effect September 1, 2021.

16 (b) The changes in law made by this Act to Section 521.372,
17 Transportation Code, take effect on the 91st day after the date the
18 office of the attorney general publishes in the Texas Register a
19 finding that:

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

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

27 (A) a written certification of the governor's

1 opposition to the enactment or enforcement of a law required under
2 23 U.S.C. Section 159; and

3 (B) a written certification that the legislature
4 has adopted the resolution described by Subdivision (1) of this
5 subsection; and

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