

By: Toth

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. Section 481.121(b), Health and Safety Code, is
15 amended to read as follows:

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

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

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

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

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

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

27 and

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

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

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

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

14 (2) on a school bus.

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

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

18 (1) who is convicted of or placed on deferred
19 adjudication community supervision for an 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); or

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

27 (2) who, if requested by the applicable law

1 enforcement agency or prosecuting attorney to provide assistance in
2 the investigation or prosecution of an offense under Section
3 20A.02, 20A.03, or 43.05, Penal Code, or a federal offense
4 containing elements that are substantially similar to the elements
5 of an offense under any of those sections:

6 (A) provided assistance in the investigation or
7 prosecution of the offense; or

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

12 SECTION 7. Section 521.372, Transportation Code, is amended
13 by amending Subsections (a) and (b) and adding Subsections (d) and
14 (e) to read as follows:

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

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

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

26 (d) The license of a person convicted of an offense
27 punishable by fine only under Section 481.121(b)(1), Health and

1 Safety Code, is not automatically suspended under this section. A
2 person described by this subsection shall pay a fee in an amount
3 that is equivalent to the sum of all fees applicable to a suspension
4 and reinstatement of a license under this subchapter.

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

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

17 SECTION 9. Sections 481.121 and 481.134, Health and Safety
18 Code, as amended by this Act, apply to an offense committed under
19 Section 481.121 or an offense committed under Section 481.121 and
20 punishable under Section 481.134 before, on, or after September 1,
21 2021, except that a final conviction for an offense that exists on
22 September 1, 2021, is unaffected by this Act.

23 SECTION 10. (a) Except as provided by Subsection (b) of
24 this section, this Act takes effect September 1, 2021.

25 (b) The changes in law made by this Act to Section 521.372,
26 Transportation Code, take effect on the 91st day after the date the
27 office of the attorney general publishes in the Texas Register a

1 finding that:

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

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

9 (A) a written certification of the governor's
10 opposition to the enactment or enforcement of a law required under
11 23 U.S.C. Section 159; and

12 (B) a written certification that the legislature
13 has adopted the resolution described by Subdivision (1) of this
14 subsection; and

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