

By: Thompson of Harris, Reynolds, et al.

H.B. No. 169

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1. Section 481.115(b), Health and Safety Code, is amended to read as follows:

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

SECTION 2. Section 481.121(b), Health and Safety Code, is amended to read as follows:

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

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

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

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

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

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

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 3. Sections [481.134\(d\)](#), (e), and (f), Health and
6 Safety Code, are amended to read as follows:

7 (d) An offense otherwise punishable under Section
8 [481.112\(b\)](#), [481.1121\(b\)\(1\)](#), [481.113\(b\)](#), [481.114\(b\)](#), [~~[481.115\(b\)](#)~~],
9 [481.1151\(b\)\(1\)](#), [481.116\(b\)](#), [481.1161\(b\)\(3\)](#), [481.120\(b\)\(3\)](#), or
10 [481.121\(b\)\(3\)](#) is a felony of the third degree if it is shown on the
11 trial of the offense that the offense was committed:

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

15 (2) on a school bus.

16 (e) An offense otherwise punishable under Section
17 [481.115\(b\)](#), [481.117\(b\)](#), [481.119\(a\)](#), [481.120\(b\)\(2\)](#), or
18 [481.121\(b\)\(2\)](#) is a state jail felony if it is shown on the trial of
19 the offense that the offense was committed:

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

23 (2) on a school bus.

24 (f) An offense otherwise punishable under Section
25 [481.118\(b\)](#), [481.119\(b\)](#), or [481.120\(b\)\(1\)](#) [~~or [481.121\(b\)\(1\)](#)~~] is a
26 Class A misdemeanor if it is shown on the trial of the offense that
27 the offense was committed:

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

4 (2) on a school bus.

5 SECTION 4. 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

25 (7) Section 521.457, Transportation Code.

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 convicted of or placed on deferred
12 adjudication community supervision for an offense under:

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

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

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

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

20 (2) who, if requested by the applicable law
21 enforcement agency or prosecuting attorney to provide assistance in
22 the investigation or prosecution of an offense under Section
23 20A.02, 20A.03, or 43.05, Penal Code, or a federal offense
24 containing elements that are substantially similar to the elements
25 of an offense under any of those sections:

26 (A) provided assistance in the investigation or
27 prosecution of the offense; or

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

5 SECTION 7. The change in law made by this Act applies only
6 to an offense committed on or after the effective date of this Act.
7 An offense committed before the effective date of this Act is
8 governed by the law in effect on the date the offense was committed,
9 and the former law is continued in effect for that purpose. For
10 purposes of this section, an offense was committed before the
11 effective date of this Act if any element of the offense occurred
12 before that date.

13 SECTION 8. This Act takes effect September 1, 2021.