

By: Dutton

H.B. No. 616

A BILL TO BE ENTITLED

AN ACT

relating to the criminal penalties for possession of two grams or less of marihuana.

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

SECTION 1. Section 481.121, Health and Safety Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

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

(1) a Class C misdemeanor if the amount of marihuana possessed is two grams or less, except as provided by Subsection (c);

(1-a) a Class B misdemeanor if the amount of marihuana possessed is two ounces or less but more than two grams;

(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

(6) punishable by imprisonment in the Texas Department of Criminal Justice for life or for a term of not more than 99 years

or less than 5 years, and a fine not to exceed \$50,000, if the amount of marihuana possessed is more than 2,000 pounds.

(c) An offense under Subsection (b)(1) is a Class B misdemeanor if it is shown on the trial of the offense that the defendant has been previously convicted three or more times of an offense involving the possession of marihuana and each prior offense was committed within the 24-month period preceding the date of the commission of the instant offense. For purposes of this subsection, "offense involving the possession of marihuana" means an offense under this section or an offense under the laws of another state that contains elements substantially similar to the elements of an offense under this section.

SECTION 2. Section 481.134(f), Health and Safety Code, is amended to read as follows:

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

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

(2) on a school bus.

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)(1-a), (b)(2), or (c)
[(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
section;

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

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

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

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

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

(7) Section 521.457, Transportation Code.

SECTION 4. Article 45.051, Code of Criminal Procedure, is
amended by adding Subsection (h) to read as follows:

(h) This subsection applies only to a defendant charged with
an offense under Section 481.121, Health and Safety Code, who is
granted a deferral under Subsection (a). In addition to any other
requirement, the judge shall, during the deferral period, require
that the defendant successfully complete a drug abuse awareness and
education program approved by the Texas Department of Licensing and
Regulation.

SECTION 5. Section 411.0728(a), Government Code, is amended
to read as follows:

(a) This section applies only to a person:

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

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

(B) Section 481.121, Health and Safety Code, if the offense is punishable under Subsection (b)(1-a) or (c) ~~[(b)(1)]~~;

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

(D) Section 43.02, Penal Code; and

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

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

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

SECTION 6. The changes in law made by this Act apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the

1 former law is continued in effect for that purpose. For purposes of
2 this section, an offense was committed before the effective date of
3 this Act if any element of the offense was committed before that
4 date.

5 SECTION 7. This Act takes effect September 1, 2021.