

By: Crockett

H.B. No. 1609

A BILL TO BE ENTITLED

AN ACT

relating to the criminal penalties for possession of marihuana.

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

SECTION 1. 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~~];~~

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

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

(4) [~~(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

(5) [~~(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.

SECTION 2. Article 14.06(d), Code of Criminal Procedure, is amended to read as follows:

1 (d) Subsection (c) applies only to a person charged with
2 committing an offense under:

3 (1) [~~Section 481.121, Health and Safety Code, if the~~
4 ~~offense is punishable under Subsection (b)(1) or (2) of that~~
5 ~~section;~~

6 [~~(1-a)~~] Section 481.1161, Health and Safety Code, if
7 the offense is punishable under Subsection (b)(1) or (2) of that
8 section;

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

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

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

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

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

19 (7) Section 521.457, Transportation Code.

20 SECTION 3. Articles 42A.551(a) and (c), Code of Criminal
21 Procedure, are amended to read as follows:

22 (a) Except as otherwise provided by Subsection (b) or (c),
23 on conviction of a state jail felony under Section 481.115(b),
24 481.1151(b)(1), 481.116(b), 481.1161(b)(3), 481.121(b)(2)
25 [~~481.121(b)(3)~~], or 481.129(g)(1), Health and Safety Code, that is
26 punished under Section 12.35(a), Penal Code, the judge shall
27 suspend the imposition of the sentence and place the defendant on

1 community supervision.

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

3 (1) under Section 481.1151(b)(1), Health and Safety
4 Code, possessed more than five abuse units of the controlled
5 substance;

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

9 (3) under Section 481.121(b)(2) [~~481.121(b)(3)~~],
10 Health and Safety Code, possessed more than one pound of marihuana.

11 SECTION 4. Section 411.0728(a), Government Code, is amended
12 to read as follows:

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

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

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

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

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

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

23 (2) who, if requested by the applicable law
24 enforcement agency or prosecuting attorney to provide assistance in
25 the investigation or prosecution of an offense under Section
26 20A.02, 20A.03, or 43.05, Penal Code, or a federal offense
27 containing elements that are substantially similar to the elements

1 of an offense under any of those sections:

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

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

8 SECTION 5. Section 481.126(a), Health and Safety Code, is
9 amended to read as follows:

10 (a) A person commits an offense if the person:

11 (1) barter property or expends funds the person knows
12 are derived from the commission of an offense under this chapter
13 punishable by imprisonment in the Texas Department of Criminal
14 Justice for life;

15 (2) barter property or expends funds the person knows
16 are derived from the commission of an offense under Section
17 481.121(a) that is punishable under Subsection (b)(4) of that
18 section [~~Section 481.121(b)(5)~~];

19 (3) barter property or finances or invests funds the
20 person knows or believes are intended to further the commission of
21 an offense for which the punishment is described by Subdivision
22 (1); or

23 (4) barter property or finances or invests funds the
24 person knows or believes are intended to further the commission of
25 an offense under Section 481.121(a) that is punishable under
26 Subsection (b)(4) of that section [~~Section 481.121(b)(5)~~].

27 SECTION 6. Sections 481.134(c), (d), (e), and (f), Health

1 and Safety Code, are amended to read as follows:

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

12 (1) in, on, or within 1,000 feet of the premises of a
13 school, the premises of a public or private youth center, or a
14 playground; or

15 (2) on a school bus.

16 (d) An offense otherwise punishable under Section
17 481.112(b), 481.1121(b)(1), 481.113(b), 481.114(b), 481.115(b),
18 481.1151(b)(1), 481.116(b), 481.1161(b)(3), 481.120(b)(3), or
19 481.121(b)(2) [~~481.121(b)(3)~~] is a felony of the third degree if it
20 is shown on the trial of the offense that 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 (e) An offense otherwise punishable under Section
26 481.117(b), 481.119(a), or 481.120(b)(2) [~~or 481.121(b)(2)~~] is a
27 state jail felony if it is shown on the trial of the offense that the

1 offense was committed:

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

5 (2) on a school bus.

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

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

13 (2) on a school bus.

14 SECTION 7. Sections [481.121](#) and [481.134](#), Health and Safety
15 Code, as amended by this Act, apply to an offense committed under
16 Section [481.121](#) or an offense committed under Section [481.121](#) and
17 punishable under Section [481.134](#) before, on, or after September 1,
18 2021, except that a final conviction for an offense that exists on
19 September 1, 2021, is unaffected by this Act.

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