

By: Allen

H.B. No. 2146

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the punishment of certain controlled substance offenses
3 committed in a drug-free zone.

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

5 SECTION 1. Section 481.134, Health and Safety Code, is
6 amended by amending Subsections (b), (c), (d), (e), and (f) and
7 adding Subsection (i) to read as follows:

8 (b) An offense otherwise punishable as a state jail felony
9 under Section 481.112, 481.1121, 481.113, 481.114, or 481.120 is
10 punishable as a felony of the third degree, and an offense otherwise
11 punishable as a felony of the second degree under any of those
12 sections is punishable as a felony of the first degree, if it is
13 shown at the punishment phase of the trial of the offense that the
14 offense was committed:

15 (1) in, on, or within 500 [~~1,000~~] feet of premises
16 owned, rented, or leased by an institution of higher learning, the
17 premises of a public or private youth center, or a playground; or

18 (2) in, on, or within 300 feet of the premises of a
19 public swimming pool [~~or video arcade facility~~].

20 (c) The minimum term of confinement or imprisonment for an
21 offense otherwise punishable under Section 481.112(c), (d), (e), or
22 (f), 481.1121(b)(2), (3), or (4), 481.113(c), (d), or (e),
23 481.114(c), (d), or (e), 481.115(c), (d), (e), or (f)
24 [~~481.115(c)-(f)~~], 481.1151(b)(2), (3), (4), or (5), 481.116(c),

1 (d), or (e), 481.1161(b)(4), (5), or (6), 481.117(c), (d), or (e),
2 481.118(c), (d), or (e), 481.120(b)(4), (5), or (6), or
3 481.121(b)(4), (5), or (6) is increased by five years and the
4 maximum fine for the offense is doubled if it is shown on the trial
5 of the offense that the offense was committed:

6 (1) in, on, or within 500 [~~1,000~~] feet of the premises
7 of a school, the premises of a public or private youth center, or a
8 playground; or

9 (2) on a school bus.

10 (d) An offense otherwise punishable under Section
11 481.112(b), 481.1121(b)(1), 481.113(b), 481.114(b), [~~481.115(b),~~
12 ~~481.1151(b)(1), 481.116(b),~~] 481.1161(b)(3), 481.120(b)(3), or
13 481.121(b)(3) is a felony of the third degree if it is shown on the
14 trial of the offense that the offense was committed:

15 (1) in, on, or within 500 [~~1,000~~] feet of any real
16 property that is owned, rented, or leased to a school or school
17 board, the premises of a public or private youth center, or a
18 playground; or

19 (2) on a school bus.

20 (e) An offense otherwise punishable under Section
21 [~~481.117(b),~~] 481.119(a) or [~~7~~] 481.120(b)(2) [~~7~~, ~~or 481.121(b)(2)~~]
22 is a state jail felony if it is shown on the trial of the offense
23 that the offense was committed:

24 (1) in, on, or within 500 [~~1,000~~] feet of any real
25 property that is owned, rented, or leased to a school or school
26 board, the premises of a public or private youth center, or a
27 playground; or

1 (2) on a school bus.

2 (f) An offense otherwise punishable under Section
3 ~~[481.118(b),]~~ 481.119(b) or ~~[7]~~ 481.120(b)(1) ~~[, or 481.121(b)(1)]~~
4 is a Class A misdemeanor if it is shown on the trial of the offense
5 that the offense was committed:

6 (1) in, on, or within 500 ~~[1,000]~~ feet of any real
7 property that is owned, rented, or leased to a school or school
8 board, the premises of a public or private youth center, or a
9 playground; or

10 (2) on a school bus.

11 (i) Punishment may not be increased under this section if it
12 is shown on the trial of the offense that the defendant was driving
13 or otherwise in transit through an area described by Subsection
14 (b)(1) or (2), (c)(1), (d)(1), (e)(1), or (f)(1) at the time the
15 offense occurred.

16 SECTION 2. Article 18.19(d), Code of Criminal Procedure, is
17 amended to read as follows:

18 (d) A person either convicted or receiving deferred
19 adjudication under Chapter 46, Penal Code, is entitled to the
20 weapon seized upon request to the court in which the person was
21 convicted or placed on deferred adjudication. However, the court
22 entering the judgment shall order the weapon destroyed, sold at
23 public sale by the law enforcement agency holding the weapon or by
24 an auctioneer licensed under Chapter 1802, Occupations Code, or
25 forfeited to the state for use by the law enforcement agency holding
26 the weapon or by a county forensic laboratory designated by the
27 court if:

1 (1) the person does not request the weapon before the
2 61st day after the date of the judgment of conviction or the order
3 placing the person on deferred adjudication;

4 (2) the person has been previously convicted under
5 Chapter 46, Penal Code;

6 (3) the weapon is one defined as a prohibited weapon
7 under Chapter 46, Penal Code;

8 (4) the offense for which the person is convicted or
9 receives deferred adjudication was committed in or on the premises
10 of:

11 (A) a playground, school, [~~video arcade~~
12 ~~facility,~~] or youth center, as those terms are defined by Section
13 481.134, Health and Safety Code; or

14 (B) a video arcade facility, as defined by
15 Article 42A.453; or

16 (5) the court determines based on the prior criminal
17 history of the defendant or based on the circumstances surrounding
18 the commission of the offense that possession of the seized weapon
19 would pose a threat to the community or one or more individuals.

20 SECTION 3. Article 42A.453(a), Code of Criminal Procedure,
21 is amended to read as follows:

22 (a) In this article:

23 (1) "Playground," [~~,"playground,"~~] "premises,"
24 "school," [~~"video arcade facility,"~~] and "youth center" have the
25 meanings assigned by Section 481.134, Health and Safety Code.

26 (2) "Video arcade facility" means any facility that:

27 (A) is open to the public, including persons who

1 are 17 years of age or younger;

2 (B) is intended primarily for the use of pinball
3 or video machines; and

4 (C) contains at least three pinball or video
5 machines.

6 SECTION 4. Article 42A.502(a), Code of Criminal Procedure,
7 is amended to read as follows:

8 (a) In this article:

9 (1) "Playground," [~~,"playground,"~~] "premises,"
10 "school," [~~"video arcade facility,"~~] and "youth center" have the
11 meanings assigned by Section 481.134, Health and Safety Code.

12 (2) "Video arcade facility" has the meaning assigned
13 by Article 42A.453.

14 SECTION 5. Section 508.187(f), Government Code, is amended
15 to read as follows:

16 (f) In this section:

17 (1) "Playground," [~~,"playground,"~~] "premises,"
18 "school," [~~"video arcade facility,"~~] and "youth center" have the
19 meanings assigned by Section 481.134, Health and Safety Code.

20 (2) "Video arcade facility" has the meaning assigned
21 by Article 42A.453, Code of Criminal Procedure.

22 SECTION 6. Section 508.225(d), Government Code, is amended
23 to read as follows:

24 (d) In this section:

25 (1) "Playground," [~~,"playground,"~~] "premises,"
26 "school," [~~"video arcade facility,"~~] and "youth center" have the
27 meanings assigned by Section 481.134, Health and Safety Code.

1 (2) "Video arcade facility" has the meaning assigned
2 by Article 42A.453, Code of Criminal Procedure.

3 SECTION 7. Section 341.906(a), Local Government Code, is
4 amended by amending Subdivision (2) and adding Subdivision (4) to
5 read as follows:

6 (2) "Playground," "premises," "school," [~~"video~~
7 ~~arcade facility,"~~] and "youth center" have the meanings assigned by
8 Section 481.134, Health and Safety Code.

9 (4) "Video arcade facility" has the meaning assigned
10 by Article 42A.453, Code of Criminal Procedure.

11 SECTION 8. Section 71.028(a), Penal Code, is amended by
12 amending Subdivision (1) and adding Subdivision (3) to read as
13 follows:

14 (1) "Institution of higher education," "playground,"
15 "premises," "school," [~~"video arcade facility,"~~] and "youth
16 center" have the meanings assigned by Section 481.134, Health and
17 Safety Code.

18 (3) "Video arcade facility" has the meaning assigned
19 by Article 42A.453, Code of Criminal Procedure.

20 SECTION 9. Section 481.134(a)(6), Health and Safety Code,
21 is repealed.

22 SECTION 10. The changes in law made by this Act apply only
23 to an offense committed on or after the effective date of this Act.
24 An offense committed before the effective date of this Act is
25 governed by the law in effect on the date the offense was committed,
26 and the former law is continued in effect for that purpose. For
27 purposes of this section, an offense was committed before the

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1 effective date of this Act if any element of the offense occurred
2 before that date.

3 SECTION 11. This Act takes effect September 1, 2021.