

By: Goldman

H.B. No. 2330

A BILL TO BE ENTITLED

AN ACT

relating to the criminal penalties for certain controlled substance offenses; increasing a criminal penalty.

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

SECTION 1. Sections 481.112(e) and (f), Health and Safety Code, are amended to read as follows:

(e) An offense under Subsection (a) is a felony of the first degree 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 10 years, and a fine not to exceed \$100,000, if the amount of the controlled substance to which the offense applies is, by aggregate weight, including adulterants or dilutants, 200 grams or more but less than 400 grams.

(f) An offense under Subsection (a) is a felony of the first degree 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 15 years, and a fine not to exceed \$250,000, if the amount of the controlled substance to which the offense applies is, by aggregate weight, including adulterants or dilutants, 400 grams or more.

SECTION 2. Section 481.1121(b), Health and Safety Code, is amended to read as follows:

(b) An offense under this section is:

(1) a state jail felony if the number of abuse units of

1 the controlled substance is fewer than 20;

2 (2) a felony of the second degree if the number of
3 abuse units of the controlled substance is 20 or more but fewer than
4 80;

5 (3) a felony of the first degree if the number of abuse
6 units of the controlled substance is 80 or more but fewer than
7 4,000; and

8 (4) a felony of the first degree punishable by
9 imprisonment in the Texas Department of Criminal Justice for life
10 or for a term of not more than 99 years or less than 15 years and a
11 fine not to exceed \$250,000, if the number of abuse units of the
12 controlled substance is 4,000 or more.

13 SECTION 3. Sections 481.1123(b), (d), (e), and (f), Health
14 and Safety Code, are amended to read as follows:

15 (b) An offense under Subsection (a) is a [~~state jail~~] felony
16 of the third degree if the amount of the controlled substance to
17 which the offense applies is, by aggregate weight, including
18 adulterants or dilutants, less than one gram.

19 (d) An offense under Subsection (a) is a felony of the first
20 degree punishable by imprisonment in the Texas Department of
21 Criminal Justice for life or for a term of not more than 99 years or
22 less than 10 years, and a fine not to exceed \$20,000, if the amount
23 of the controlled substance to which the offense applies is, by
24 aggregate weight, including adulterants or dilutants, four grams or
25 more but less than 200 grams.

26 (e) An offense under Subsection (a) is a felony of the first
27 degree punishable by imprisonment in the Texas Department of

1 Criminal Justice for life or for a term of not more than 99 years or
2 less than 15 years, and a fine not to exceed \$200,000, if the amount
3 of the controlled substance to which the offense applies is, by
4 aggregate weight, including adulterants or dilutants, 200 grams or
5 more but less than 400 grams.

6 (f) An offense under Subsection (a) is a felony of the first
7 degree punishable by imprisonment in the Texas Department of
8 Criminal Justice for life or for a term of not more than 99 years or
9 less than 20 years, and a fine not to exceed \$500,000, if the amount
10 of the controlled substance to which the offense applies is, by
11 aggregate weight, including adulterants or dilutants, 400 grams or
12 more.

13 SECTION 4. Section 481.113(e), Health and Safety Code, is
14 amended to read as follows:

15 (e) An offense under Subsection (a) is a felony of the first
16 degree punishable by imprisonment in the Texas Department of
17 Criminal Justice for life or for a term of not more than 99 years or
18 less than 10 years, and a fine not to exceed \$100,000, if the amount
19 of the controlled substance to which the offense applies is, by
20 aggregate weight, including adulterants or dilutants, 400 grams or
21 more.

22 SECTION 5. Section 481.114(e), Health and Safety Code, is
23 amended to read as follows:

24 (e) An offense under Subsection (a) is a felony of the first
25 degree punishable by imprisonment in the Texas Department of
26 Criminal Justice for life or for a term of not more than 99 years or
27 less than 10 years, and a fine not to exceed \$100,000, if the amount

1 of the controlled substance to which the offense applies is, by
2 aggregate weight, including any adulterants or dilutants, 400 grams
3 or more.

4 SECTION 6. Section 481.115(f), Health and Safety Code, is
5 amended to read as follows:

6 (f) An offense under Subsection (a) is a felony of the first
7 degree punishable by imprisonment in the Texas Department of
8 Criminal Justice for life or for a term of not more than 99 years or
9 less than 10 years, and a fine not to exceed \$100,000, if the amount
10 of the controlled substance possessed is, by aggregate weight,
11 including adulterants or dilutants, 400 grams or more.

12 SECTION 7. Section 481.1151(b), Health and Safety Code, is
13 amended to read as follows:

14 (b) An offense under this section is:

15 (1) a state jail felony if the number of abuse units of
16 the controlled substance is fewer than 20;

17 (2) a felony of the third degree if the number of abuse
18 units of the controlled substance is 20 or more but fewer than 80;

19 (3) a felony of the second degree if the number of
20 abuse units of the controlled substance is 80 or more but fewer than
21 4,000;

22 (4) a felony of the first degree if the number of abuse
23 units of the controlled substance is 4,000 or more but fewer than
24 8,000; and

25 (5) a felony of the first degree punishable by
26 imprisonment in the Texas Department of Criminal Justice for life
27 or for a term of not more than 99 years or less than 15 years and a

1 fine not to exceed \$250,000, if the number of abuse units of the
2 controlled substance is 8,000 or more.

3 SECTION 8. Section 481.116(e), Health and Safety Code, is
4 amended to read as follows:

5 (e) An offense under Subsection (a) is a felony of the first
6 degree punishable by imprisonment in the Texas Department of
7 Criminal Justice for life or for a term of not more than 99 years or
8 less than five years, and a fine not to exceed \$50,000, if the
9 amount of the controlled substance possessed is, by aggregate
10 weight, including adulterants or dilutants, 400 grams or more.

11 SECTION 9. Section 481.1161(b), Health and Safety Code, is
12 amended to read as follows:

13 (b) An offense under this section is:

14 (1) a Class B misdemeanor if the amount of the
15 controlled substance possessed is, by aggregate weight, including
16 adulterants or dilutants, two ounces or less;

17 (2) a Class A misdemeanor if the amount of the
18 controlled substance possessed is, by aggregate weight, including
19 adulterants or dilutants, four ounces or less but more than two
20 ounces;

21 (3) a state jail felony if the amount of the controlled
22 substance possessed is, by aggregate weight, including adulterants
23 or dilutants, five pounds or less but more than four ounces;

24 (4) a felony of the third degree if the amount of the
25 controlled substance possessed is, by aggregate weight, including
26 adulterants or dilutants, 50 pounds or less but more than 5 pounds;

27 (5) a felony of the second degree if the amount of the

1 controlled substance possessed is, by aggregate weight, including
2 adulterants or dilutants, 2,000 pounds or less but more than 50
3 pounds; and

4 (6) a felony of the first degree punishable by
5 imprisonment in the Texas Department of Criminal Justice for life
6 or for a term of not more than 99 years or less than 5 years, and a
7 fine not to exceed \$50,000, if the amount of the controlled
8 substance possessed is, by aggregate weight, including adulterants
9 or dilutants, more than 2,000 pounds.

10 SECTION 10. Section 481.117(e), Health and Safety Code, is
11 amended to read as follows:

12 (e) An offense under Subsection (a) is a felony of the first
13 degree punishable by imprisonment in the Texas Department of
14 Criminal Justice for life or for a term of not more than 99 years or
15 less than five years, and a fine not to exceed \$50,000, if the
16 amount of the controlled substance possessed is, by aggregate
17 weight, including adulterants or dilutants, 400 grams or more.

18 SECTION 11. Section 481.118(e), Health and Safety Code, is
19 amended to read as follows:

20 (e) An offense under Subsection (a) is a felony of the first
21 degree punishable by imprisonment in the Texas Department of
22 Criminal Justice for life or for a term of not more than 99 years or
23 less than five years, and a fine not to exceed \$50,000, if the
24 amount of the controlled substance possessed is, by aggregate
25 weight, including adulterants or dilutants, 400 grams or more.

26 SECTION 12. Section 481.120(b), Health and Safety Code, is
27 amended to read as follows:

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

2 (1) a Class B misdemeanor if the amount of marihuana
3 delivered is one-fourth ounce or less and the person committing the
4 offense does not receive remuneration for the marihuana;

5 (2) a Class A misdemeanor if the amount of marihuana
6 delivered is one-fourth ounce or less and the person committing the
7 offense receives remuneration for the marihuana;

8 (3) a state jail felony if the amount of marihuana
9 delivered is five pounds or less but more than one-fourth ounce;

10 (4) a felony of the second degree if the amount of
11 marihuana delivered is 50 pounds or less but more than five pounds;

12 (5) a felony of the first degree if the amount of
13 marihuana delivered is 2,000 pounds or less but more than 50 pounds;
14 and

15 (6) a felony of the first degree punishable by
16 imprisonment in the Texas Department of Criminal Justice for life
17 or for a term of not more than 99 years or less than 10 years, and a
18 fine not to exceed \$100,000, if the amount of marihuana delivered is
19 more than 2,000 pounds.

20 SECTION 13. Section 481.121(b), Health and Safety Code, is
21 amended to read as follows:

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

23 (1) a Class B misdemeanor if the amount of marihuana
24 possessed is two ounces or less;

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

27 (3) a state jail felony if the amount of marihuana

1 possessed is five pounds or less but more than four ounces;

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

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

7 (6) a felony of the first degree punishable by
8 imprisonment in the Texas Department of Criminal Justice for life
9 or for a term of not more than 99 years or less than 5 years, and a
10 fine not to exceed \$50,000, if the amount of marihuana possessed is
11 more than 2,000 pounds.

12 SECTION 14. Section 481.126(a), Health and Safety Code, is
13 amended to read as follows:

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

15 (1) barter property or expends funds the person knows
16 are derived from the commission of a first degree felony [~~an~~]
17 offense under this chapter punishable by imprisonment in the Texas
18 Department of Criminal Justice for life;

19 (2) barter property or expends funds the person knows
20 are derived from the commission of an offense under Section
21 481.121(a) that is punishable under Section 481.121(b)(5);

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

26 (4) barter property or finances or invests funds the
27 person knows or believes are intended to further the commission of

1 an offense under Section 481.121(a) that is punishable under
2 Section 481.121(b)(5).

3 SECTION 15. Section 481.134(c), Health and Safety Code, as
4 amended by Chapters 584 (S.B. 768) and 807 (H.B. 1540), Acts of the
5 87th Legislature, Regular Session, 2021, is reenacted and amended
6 to read as follows:

7 (c) The minimum term of confinement or imprisonment for an
8 offense otherwise punishable under Section 481.112(c), (d), (e), or
9 (f), 481.1121(b)(2), (3), or (4), 481.1123(b), (c) [~~481.1123(c)~~],
10 (d), (e), or (f), 481.113(c), (d), or (e), 481.114(c), (d), or (e),
11 481.115(c)-(f), 481.1151(b)(2), (3), (4), or (5), 481.116(c), (d),
12 or (e), 481.1161(b)(4), (5), or (6), 481.117(c), (d), or (e),
13 481.118(c), (d), or (e), 481.120(b)(4), (5), or (6), or
14 481.121(b)(4), (5), or (6) is increased by five years and the
15 maximum fine for the offense is doubled if it is shown on the trial
16 of the offense that the offense was committed:

17 (1) in, on, or within 1,000 feet of the premises of a
18 school, the premises of a public or private youth center, or a
19 playground;

20 (2) on a school bus; or

21 (3) by any unauthorized person 18 years of age or
22 older, in, on, or within 1,000 feet of premises owned, rented, or
23 leased by a general residential operation operating as a
24 residential treatment center.

25 SECTION 16. Section 71.02(a), Penal Code, is amended to
26 read as follows:

27 (a) A person commits an offense if, with the intent to

1 establish, maintain, or participate in a combination or in the
2 profits of a combination or as a member of a criminal street gang,
3 the person commits or conspires to commit one or more of the
4 following:

5 (1) murder, capital murder, arson, aggravated
6 robbery, robbery, burglary, theft, aggravated kidnapping,
7 kidnapping, aggravated assault, aggravated sexual assault, sexual
8 assault, continuous sexual abuse of young child or disabled
9 individual, solicitation of a minor, forgery, deadly conduct,
10 assault punishable as a Class A misdemeanor, burglary of a motor
11 vehicle, or unauthorized use of a motor vehicle;

12 (2) any gambling offense punishable as a Class A
13 misdemeanor;

14 (3) promotion of prostitution, aggravated promotion
15 of prostitution, or compelling prostitution;

16 (4) unlawful manufacture, transportation, repair, or
17 sale of firearms or prohibited weapons;

18 (5) unlawful manufacture, delivery, dispensation, or
19 distribution of a controlled substance or dangerous drug, or
20 unlawful possession of a controlled substance or dangerous drug
21 through forgery, fraud, misrepresentation, or deception;

22 (5-a) causing the unlawful delivery, dispensation, or
23 distribution of a controlled substance or dangerous drug in
24 violation of Subtitle B, Title 3, Occupations Code;

25 (5-b) unlawful possession with intent to deliver a
26 controlled substance listed in Penalty Group 1-B under Section
27 481.1022, Health and Safety Code;

1 (6) any unlawful wholesale promotion or possession of
2 any obscene material or obscene device with the intent to wholesale
3 promote the same;

4 (7) any offense under Subchapter B, Chapter 43,
5 depicting or involving conduct by or directed toward a child
6 younger than 18 years of age;

7 (8) any felony offense under Chapter 32;

8 (9) any offense under Chapter 36;

9 (10) any offense under Chapter 34, 35, or 35A;

10 (11) any offense under Section 37.11(a);

11 (12) any offense under Chapter 20A;

12 (13) any offense under Section 37.10;

13 (14) any offense under Section 38.06, 38.07, 38.09, or
14 38.11;

15 (15) any offense under Section 42.10;

16 (16) any offense under Section 46.06(a)(1) or 46.14;

17 (17) any offense under Section 20.05 or 20.06;

18 (18) any offense under Section 16.02; or

19 (19) any offense classified as a felony under the Tax
20 Code.

21 SECTION 17. The changes in law made by this Act apply only
22 to an offense committed on or after the effective date of this Act.
23 An offense committed before the effective date of this Act is
24 governed by the law in effect on the date the offense was committed,
25 and the former law is continued in effect for that purpose. For
26 purposes of this section, an offense was committed before the
27 effective date of this Act if any element of the offense occurred

1 before that date.

2 SECTION 18. To the extent of any conflict, this Act prevails
3 over another Act of the 88th Legislature, Regular Session, 2023,
4 relating to nonsubstantive additions to and corrections in enacted
5 codes.

6 SECTION 19. This Act takes effect September 1, 2023.