

By: Jones of Harris

H.B. No. 4914

A BILL TO BE ENTITLED

AN ACT

relating to removing criminal penalties for possession of certain small amounts of controlled substances.

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 state jail felony if the amount of the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, less than one gram.~~

(c)An offense under Subsection (a) is a ~~felony of the third degree~~ Class B misdemeanor if the amount of the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, one gram or more but less than four grams.

(d)An offense under Subsection (a) is a ~~felony of the second degree~~ Class A misdemeanor if the amount of the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, four grams or more but less than 200 grams.

SECTION 2. Section 481.116(b), Health and Safety Code, is amended to read as follows:

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

(c) An offense under Subsection (a) is a ~~felony of the third degree~~ Class B misdemeanor if the amount of the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, one gram or more but less than four grams.

(d) An offense under Subsection (a) is a ~~felony of the second degree~~ Class A misdemeanor if the amount of the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, four grams or more but less than 200 grams.

SECTION 3. Section [481.1161](#)(b), Health and Safety Code, is amended to read as follows:

(b) An offense under this section is:

(1) a Class B misdemeanor if the amount of the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, two ounces or less but more than 1 gram;

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

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

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

(5) a felony of the second degree if the amount of the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, 2,000 pounds or less but more than 50

1 pounds; and

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

7 SECTION 4. Section 481.117(b), Health and Safety Code, is  
8 amended to read as follows:

9 (b) An offense under Subsection (a) is a Class B misdemeanor  
10 if the amount of the controlled substance possessed is, by  
11 aggregate weight, including adulterants or dilutants, less than 4  
12 grams but more than 1 grams.

13 ~~(b)~~(c) An offense under Subsection (a) is a Class A  
14 misdemeanor if the amount of the controlled substance possessed is,  
15 by aggregate weight, including adulterants or dilutants, less than  
16 28 grams but more than 4 grams.

17 ~~(c)~~(d) An offense under Subsection (a) is a felony of the  
18 third degree if the amount of the controlled substance possessed  
19 is, by aggregate weight, including adulterants or dilutants, 28  
20 grams or more but less than 200 grams.

21 ~~(d)~~(e) An offense under Subsection (a) is a felony of the  
22 second degree, if the amount of the controlled substance possessed  
23 is, by aggregate weight, including adulterants or dilutants, 200  
24 grams or more but less than 400 grams.

25 ~~(e)~~(f) An offense under Subsection (a) is 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 five years, and

1 a fine not to exceed \$50,000, if the amount of the controlled  
2 substance possessed is, by aggregate weight, including adulterants  
3 or dilutants, 400 grams or more.

4 ~~(f)~~(g) It is a defense to prosecution for an offense  
5 punishable under Subsection (b) that the actor:

6 (1) was the first person to request emergency medical  
7 assistance in response to the possible overdose of another person  
8 and:

9 (A) made the request for medical assistance  
10 during an ongoing medical emergency;

11 (B) remained on the scene until the medical  
12 assistance arrived; and

13 (C) cooperated with medical assistance and law  
14 enforcement personnel; or

15 (2) was the victim of a possible overdose for which  
16 emergency medical assistance was requested, by the actor or by  
17 another person, during an ongoing medical emergency.

18 ~~(g)~~(h) The defense to prosecution provided by Subsection  
19 (f) is not available if:

20 (1) at the time the request for emergency medical  
21 assistance was made:

22 (A) a peace officer was in the process of  
23 arresting the actor or executing a search warrant describing the  
24 actor or the place from which the request for medical assistance was  
25 made; or

26 (B) the actor is committing another offense,  
27 other than an offense punishable under Section [481.115\(b\)](#),

1 481.1151(b)(1), 481.116(b), 481.1161(b)(1) or (2), 481.118(b), or  
2 481.121(b)(1) or (2), or an offense under Section 481.119(b),  
3 481.125(a), 483.041(a), or 485.031(a);

4 (2) the actor has been previously convicted of or  
5 placed on deferred adjudication community supervision for an  
6 offense under this chapter or Chapter 483 or 485;

7 (3) the actor was acquitted in a previous proceeding  
8 in which the actor successfully established the defense under that  
9 subsection or Section 481.115(g), 481.1151(c), 481.116(f),  
10 481.1161(c), 481.118(f), 481.119(c), 481.121(c), 481.125(g),  
11 483.041(e), or 485.031(c); or

12 (4) at any time during the 18-month period preceding the  
13 date of the commission of the instant offense, the actor requested  
14 emergency medical assistance in response to the possible overdose  
15 of the actor or another person.

16 ~~(h)~~(i) The defense to prosecution provided by Subsection (f)  
17 does not preclude the admission of evidence obtained by law  
18 enforcement resulting from the request for emergency medical  
19 assistance if that evidence pertains to an offense for which the  
20 defense described by Subsection (f) is not available.

21 SECTION 5. Section 481.118(b), Health and Safety Code, is  
22 amended to read as follows:

23 (b) An offense under Subsection (a) is a Class B misdemeanor  
24 if the amount of the controlled substance possessed is, by  
25 aggregate weight, including adulterants or dilutants, less than 28  
26 grams but more than 1 gram.

27 SECTION 6. Section 481.119(b), Health and Safety Code, is

1 amended to read as follows:

2 (b) A person commits an offense if the person knowingly or  
3 intentionally possesses a controlled substance in an amount  
4 exceeding 1 gram listed in a schedule by an action of the  
5 commissioner under this chapter but not listed in a penalty group.  
6 An offense under this subsection is a Class B misdemeanor.

7 SECTION 7. Section 481.121(b), Health and Safety Code, is  
8 amended to read as follows:

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

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

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

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

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

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

21 (6) punishable by imprisonment in the Texas Department  
22 of Criminal Justice for life or for a term of not more than 99 years  
23 or less than 5 years, and a fine not to exceed \$50,000, if the amount  
24 of marihuana possessed is more than 2,000 pounds.

25 SECTION 8. The change in law made by this Act applies only  
26 to an offense committed on or after the effective date of this Act.  
27 An offense committed before the effective date of this Act is

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

6 SECTION 9. This Act takes effect September 1, 2023.