By: Canales H.B. No. 1202

A BILL TO BE ENTITLED

AN ACT

relating to marihuana and marihuana concentrate; providing criminal penalties; changing the eligibility for community supervision.

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

SECTION 1. Article 42A.551(c), Code of Criminal Procedure, is amended to read as follows:

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

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

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

(3) under Section 481.121(b)(3), Health and Safety Code, possessed:

(A) more than one pound of marihuana other than marihuana concentrate; or

(B) more than 90 grams of marihuana concentrate.

SECTION 2. Section 481.002, Health and Safety Code, is amended by amending Subdivision (26) and adding Subdivision (57) to read as follows:

(26) "Marihuana" means the plant Cannabis sativa L., whether growing or not, the seeds of that plant, the resin extracted

from a part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of that plant, the resin of that plant, or its seeds. The term includes marihuana concentrate. The term does not include:

(A) [~~the resin extracted from a part of the plant or a compound, manufacture, salt, derivative, mixture, or preparation of the resin;~~

[~~(B)~~] the mature stalks of the plant or fiber produced from the stalks;

(B) [~~(C)~~] oil or cake made from the seeds of the plant;

(C) [~~(D)~~] a compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake;

(D) [~~(E)~~] the sterilized seeds of the plant that are incapable of beginning germination; or

(E) [~~(F)~~] hemp, as that term is defined by Section 121.001, Agriculture Code.

(57) "Marihuana concentrate" means the resin extracted from marihuana or a compound, manufacture, salt, derivative, mixture, or preparation of the resin.

SECTION 3. Section 481.120, Health and Safety Code, is amended by amending Subsection (b) and adding Subsections (c) and (d) to read as follows:

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

(1) a Class B misdemeanor if:

(A) the person committing the offense does not

receive remuneration for the marihuana; and

(B) the amount [~~of marihuana~~] delivered is:

(i) one-fourth ounce or less of marihuana other than marihuana concentrate [~~and the person committing the offense does not receive remuneration for the marihuana~~]; or

(ii) 1.5 grams or less of marihuana concentrate;

(2) a Class A misdemeanor if:

(A) the person committing the offense receives remuneration for the marihuana; and

(B) the amount [~~of marihuana~~] delivered is:

(i) one-fourth ounce or less of marihuana other than marihuana concentrate [~~and the person committing the offense receives remuneration for the marihuana~~]; or

(ii) 1.5 grams or less of marihuana concentrate;

(3) a state jail felony if:

(A) the amount of marihuana other than marihuana concentrate delivered is five pounds or less but more than one-fourth ounce; or

(B) the amount of marihuana concentrate delivered is 1 pound or less but more than 1.5 grams;

(4) a felony of the second degree if:

(A) the amount of marihuana other than marihuana concentrate delivered is 50 pounds or less but more than five pounds; or

(B) the amount of marihuana concentrate

delivered is 10 pounds or less but more than 1 pound;

(5) a felony of the first degree if:

(A) the amount of marihuana other than marihuana concentrate delivered is 2,000 pounds or less but more than 50 pounds; or

(B) the amount of marihuana concentrate delivered is 400 pounds or less but more than 10 pounds; and

(6) 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:

(A) the amount of marihuana other than marihuana concentrate delivered is more than 2,000 pounds; or

(B) the amount of marihuana concentrate delivered is more than 400 pounds.

(c) For purposes of the prosecution of an offense under this section involving marihuana concentrate, the amount of marihuana concentrate delivered is the weight of the marihuana concentrate, excluding adulterants or dilutants.

(d) The director shall adopt rules for determining the amount of marihuana concentrate in a product that contains a combination of marihuana concentrate and adulterants or dilutants.

SECTION 4. Section 481.121, Health and Safety Code, is amended by amending Subsection (b) and adding Subsections (f) and (g) to read as follows:

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

(1) a Class B misdemeanor if:

(A) the amount of marihuana other than marihuana concentrate possessed is two ounces or less; or

(B) the amount of marihuana concentrate possessed is 10 grams or less;

(2) a Class A misdemeanor if:

(A) the amount of marihuana other than marihuana concentrate possessed is four ounces or less but more than two ounces; or

(B) the amount of marihuana concentrate possessed is 20 grams or less but more than 10 grams;

(3) a state jail felony if:

(A) the amount of marihuana other than marihuana concentrate possessed is five pounds or less but more than four ounces; or

(B) the amount of marihuana concentrate possessed is 1 pound or less but more than 20 grams;

(4) a felony of the third degree if:

(A) the amount of marihuana other than marihuana concentrate possessed is 50 pounds or less but more than 5 pounds; or

(B) the amount of marihuana concentrate possessed is 10 pounds or less but more than 1 pound;

(5) a felony of the second degree if:

(A) the amount of marihuana other than marihuana concentrate possessed is 2,000 pounds or less but more than 50 pounds; or

(B) the amount of marihuana concentrate

possessed is 400 pounds or less but more than 10 pounds; and

(6) 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 5 years, and a fine not to exceed $50,000, if:

(A) the amount of marihuana other than marihuana concentrate possessed is more than 2,000 pounds; or

(B) the amount of marihuana concentrate possessed is more than 400 pounds.

(f) For purposes of the prosecution of an offense under this section involving marihuana concentrate, the amount of marihuana concentrate possessed is the weight of the marihuana concentrate, excluding adulterants or dilutants.

(g) The director shall adopt rules for determining the amount of marihuana concentrate in a product that contains a combination of marihuana concentrate and adulterants or dilutants.

SECTION 5. Section 481.122(b), Health and Safety Code, is amended to read as follows:

(b) It is an affirmative defense to prosecution under this section that:

(1) the actor was a child when the offense was committed; or

(2) the actor:

(A) was younger than 21 years of age when the offense was committed;

(B) delivered only marihuana in an amount equal to or less than:

(i) one-fourth ounce of marihuana other than marihuana concentrate; or

(ii) 1.5 grams of marihuana concentrate; and

(C) did not receive remuneration for the delivery.

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

SECTION 7. This Act takes effect September 1, 2027.