

By: Ellis

S. B. No. 412

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the penalty for certain offenders for possession of a
3 small amount of certain controlled substances.

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

5 SECTION 1. Section 481.115(b), Health and Safety Code, is
6 amended to read as follows:

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

11 SECTION 2. Section 481.1151(b), Health and Safety Code, is
12 amended to read as follows:

13 (b) An offense under this section is:

14 (1) a Class A misdemeanor [state jail felony] if the
15 number of abuse units of the controlled substance is fewer than 20;

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

24 (5) punishable by imprisonment in the Texas Department

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1 of Criminal Justice for life or for a term of not more than 99 years
2 or less than 15 years and a fine not to exceed \$250,000, if the
3 number of abuse units of the controlled substance is 8,000 or more.

4 SECTION 3. Section [481.116](#)(b), Health and Safety Code, is
5 amended to read as follows:

6 (b) An offense under Subsection (a) is a Class A misdemeanor
7 ~~[state jail felony]~~ if the amount of the controlled substance
8 possessed is, by aggregate weight, including adulterants or
9 dilutants, less than one gram.

10 SECTION 4. Section [481.134](#)(d), Health and Safety Code, is
11 amended to read as follows:

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

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

21 SECTION 5. Section 11, Article [42.12](#), Code of Criminal
22 Procedure, is amended by adding Subsection (n) to read as follows:

23 (n) A judge who grants community supervision to a person
24 convicted of a Class A misdemeanor under Section [481.115](#)(b),
25 [481.1151](#)(b)(1), [481.116](#)(b), or [481.1161](#)(b)(2), Health and Safety
26 Code, may require, as a condition of community supervision, that
27 the person successfully complete an educational program on

1 substance abuse awareness approved by the Department of State
2 Health Services.

3 SECTION 6. Section 15(a)(1), Article 42.12, Code of
4 Criminal Procedure, is amended to read as follows:

5 (1) On conviction of a state jail felony under Section
6 [~~481.115(b)~~, ~~481.1151(b)(1)~~, ~~481.116(b)~~,] 481.1161(b)(3),
7 481.121(b)(3), or 481.129(g)(1), Health and Safety Code, that is
8 punished under Section 12.35(a), Penal Code, the judge shall
9 suspend the imposition of the sentence and place the defendant on
10 community supervision, unless the defendant has previously been
11 convicted of a felony, other than a felony punished under Section
12 12.44(a), Penal Code, or unless the conviction resulted from an
13 adjudication of the guilt of a defendant previously placed on
14 deferred adjudication community supervision for the offense, in
15 which event the judge may suspend the imposition of the sentence and
16 place the defendant on community supervision or may order the
17 sentence to be executed. The provisions of this subdivision
18 requiring the judge to suspend the imposition of the sentence and
19 place the defendant on community supervision do not apply to a
20 defendant who:

21 (A) [~~under Section 481.1151(b)(1), Health and~~
22 ~~Safety Code, possessed more than five abuse units of the controlled~~
23 ~~substance,~~

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

27 (B) [~~(C)~~] under Section 481.121(b)(3), Health

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1 and Safety Code, possessed more than one pound of marihuana.

2 SECTION 7. The change in law made by this Act applies only
3 to an offense committed on or after the effective date of this Act.
4 An offense committed before the effective date of this Act is
5 governed by the law in effect on the date the offense was committed,
6 and the former law is continued in effect for that purpose. For
7 purposes of this section, an offense was committed before the
8 effective date of this Act if any element of the offense was
9 committed before that date.

10 SECTION 8. This Act takes effect September 1, 2015.