

- SUBJECT:** Revising penalties for possession of THC and related substances
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 7 ayes — Collier, Cason, Cook, Crockett, Hinojosa, A. Johnson, Vasut
2 nays — K. Bell, Murr
- WITNESSES:** For — Liza Deanda-Garcia, Bayou City Wellness Solutions; Jonathan Copeland and LaTonya Whittington, Cannabis Reform of Houston; Karen Reeves, CenTex Community Outreach; Elizabeth Miller, Libertarian Party of Texas SD10; Alycia Castillo, Texas Criminal Justice Coalition; *(Registered, but did not testify:* Lauren Johnson, ACLU of Texas; Greg Glod, Americans For Prosperity; Warren Burkley and Chas Moore, Austin Justice Coalition; M. Paige Williams for Dallas County Criminal District Attorney John Creuzot; Eric Espinoza, DFW NORML; Dustin Cox, GRAV; Scott Henson and Kathy Mitchell, Just Liberty; Nathan Moxley and Rene Perez, Libertarian Party of Texas; John Baucum, Republicans Against Marijuana Prohibition and Texas Young Republican Federation; Maggie Luna, Statewide Leadership Council; Heather Fazio, Texans for Responsible Marijuana Policy; Rene Lara, Texas AFL-CIO; Amanda List, Texas Appleseed; Sarah Moseley, Texas Cannabis Collective; Sarah Reyes, Texas Criminal Justice Coalition; Amelia Casas and Emily Gerrick, Texas Fair Defense Project; Jaclyn Finkel, Texas NORML and Foundation for an Informed Texas; and 12 individuals)
- Against — *(Registered, but did not testify:* Ronnie Morris, Grand Prairie Police Department; Jimmy Rodriguez, San Antonio Police Officers Association; Lindy Borchardt, for Sharen Wilson, Tarrant County Criminal District Attorney; Cindi Castilla, Texas Eagle Forum; Aldo Caldo; Deana Johnston)
- On — *(Registered, but did not testify:* Brady Mills, Texas DPS Crime Lab)
- BACKGROUND:** Health and Safety Code ch. 481 is the Texas Controlled Substances Act.

It categorizes illegal substances into penalty groups and provides penalties for the manufacture, delivery, and possession of controlled substances.

Sec. 481.121 covers the possession of marijuana with penalties increasing with the amount that is possessed. Possession of two ounces or less is punished as a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000). The maximum penalty is life in prison or a term of five to 99 years and a fine up to \$50,000, if the amount of marijuana possessed is more than 2,000 pounds.

Tetrahydrocannabinols (THC), other than marijuana, and synthetic equivalents of the substance in the plant and related substances are placed in Penalty Group 2. Health and Safety Code sec. 481.116 establishes the penalty for possession of substances in Penalty Group 2, which start at a state jail felony for less than 1 gram and increase to life in prison or a term of five to 99 years and a fine up to \$50,000 for 400 grams or more.

DIGEST:

HB 2593 would remove tetrahydrocannabinols and related substances from Penalty Group 2 and place them in a new category, Penalty Group 2-B, under the Texas Controlled Substances Act.

Penalties for possession of substances from the new Penalty Group 2-B would be the same as those in Penalty Group 2-A, which range from a class B misdemeanor if the substance is two ounces or less, to life in prison or a term of five to 99 years and a fine up to \$50,000 if the amount of substance possessed is more than 2,000 pounds.

Penalties for the manufacture or delivery of substances in the new Penalty Group 2-B would be the same as those for manufacture or delivery of substances in Penalty Group 2 or Penalty Group 2-A, which range from a state jail felony to a life in prison or a term of five to 99 years and a fine of up to \$100,000 if the weight is 400 grams or more.

Penalties for delivering a substance in Penalty Group 2-B to a child would be the same as those for delivering marijuana to a child, which is a second-degree felony (two to 20 years in prison and an optional fine of up

to \$10,000)

The bill would take effect September 1, 2021, and would apply to offenses committed on or after that date.

**SUPPORTERS
SAY:**

HB 2593 would treat possession of illegal substances with THC, an active ingredient in marijuana, more fairly, consistently, and appropriately by placing these possession offenses in a new penalty group and applying the same criminal penalties for possession as those applied to marijuana. Currently, while penalties for possessing marijuana begin with a misdemeanor for small amounts, penalties for possessing THC in other forms begin at a felony level, determined by the weight of the item. This has resulted in the possession of certain products with THC, such as the wax for e-cigarettes or an edible gummy, being punished harshly and out of proportion with the way marijuana is punished.

There is no rational basis for such disparities, and it results in disproportionate punishments for possession of similar substances. Texans should not be subject to drastically harsher penalties for possessing THC in a gummy or e-cigarette than they would be for marijuana. Felony arrests and punishments have serious consequences and can carry lifelong negative repercussions on employment, housing, schooling, and more.

The bill would address this by punishing the two types of possession of illegal substances in the same way. It would apply a rational, fair approach by instituting a penalty ladder for possession offenses that increased with amount, mirroring what is currently applied to marijuana. Penalties for manufacturing or delivering THC and related substances would remain as under current law. HB 2593 would not decriminalize marijuana and would not encourage drug use, as possession in any form would remain a crime.

**CRITICS
SAY:**

Texas should not seek to lower penalties for drug possession, as this could encourage illegal drug use and could make it more difficult to enforce drug laws. In addition, increased drug use brings with it a host of potential problems, including addiction and other health issues.