

**BILL ANALYSIS**

C.S.H.B. 3191  
By: Phillips  
Criminal Jurisprudence  
Committee Report (Substituted)

**BACKGROUND AND PURPOSE**

Interested parties contend that current law does not provide a sufficient penalty for a person who delivers to a child a controlled substance listed in a schedule by an action of the commissioner of state health services but not listed in a penalty group under the Texas Controlled Substances Act. C.S.H.B. 3191 seeks to address this issue.

**CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

**RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

**ANALYSIS**

C.S.H.B. 3191 amends the Health and Safety Code to enhance from a Class A misdemeanor to a state jail felony the penalty for knowingly manufacturing, delivering, or possessing with intent to deliver a controlled substance listed in a schedule by an action of the commissioner of state health services but not listed in a penalty group under the Texas Controlled Substances Act if the actor was 18 years of age or older at the time of the offense and delivered such a controlled substance to a person who, at the time of the offense, was younger than 18 years of age or enrolled in a public or private primary or secondary school or to a person that the actor knew or believed intended to deliver the controlled substance to a person who is of such age or is so enrolled.

**EFFECTIVE DATE**

September 1, 2015.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 3191 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

**INTRODUCED**

**HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Section 481.119, Health and

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84R 27189

15.121.462

Substitute Document Number: 84R 23262

Safety Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) A person commits an offense if the person knowingly manufactures, delivers, or possesses with intent to deliver a controlled substance listed in a schedule by an action of the commissioner under this chapter but not listed in a penalty group. Except as provided by Subsection (c), an [An] offense under this subsection is a Class A misdemeanor.

(c) An offense under Subsection (a) is a state jail felony if the person

delivers a controlled substance described by that subsection to a person:

- (1) who is younger than 18 years of age;
- (2) who is enrolled in a public or private primary or secondary school; or
- (3) who the actor knows or believes intends to deliver the controlled substance to a person described by Subdivision (1) or (2).

SECTION 2. The change in law made by this Act applies 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 3. This Act takes effect September 1, 2015.

Safety Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) A person commits an offense if the person knowingly manufactures, delivers, or possesses with intent to deliver a controlled substance listed in a schedule by an action of the commissioner under this chapter but not listed in a penalty group. Except as provided by Subsection (c), an [An] offense under this subsection is a Class A misdemeanor.

(c) An offense under Subsection (a) is a state jail felony if the actor:

(1) was 18 years of age or older at the time of the offense; and

(2) delivered a controlled substance described by that subsection to:

(A) a person who, at the time of the offense, was:

- (i) younger than 18 years of age; or
- (ii) enrolled in a public or private primary or secondary school; or

(B) a person that the actor knew or believed intended to deliver the controlled substance to a person described by Paragraph (A).

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.