

BILL ANALYSIS

H.B. 2146
By: Allen
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

In Texas, certain drug offenses committed within drug-free zones carry increased penalties. Drug-free zones are intended to prevent drug activity near areas where children are likely to congregate and include areas near the premises of a school, playground, or youth center and on a school bus. However, concerns have been raised that these drug-free zone enhancements inappropriately apply to those who are blocks away from a school or playground and can even apply to those driving through the zone. It has been suggested that the large size of the areas that constitute drug-free zones under state law can often turn an entire neighborhood into a drug-free zone, which is more likely to impact communities of color, increasing the disproportionate rate of incarceration among those populations. Further, the law includes possession of less than one gram of certain controlled substances, which is an amount not consistent with dealing, but with personal use. H.B. 2146 seeks to address these concerns by decreasing the distance within certain premises that constitutes a drug-free zone for enhancement purposes, removing certain controlled substance possession offenses involving small amounts from those whose penalty is enhanced if committed in such a zone, and prohibiting a punishment increase for a defendant who was driving or otherwise in transit through such a zone.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change 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

H.B. 2146 amends the Health and Safety Code to make the following changes with regard to punishment enhancements for certain controlled substance offenses committed in a drug-free zone:

- decreases from 1,000 feet to 500 feet the distance within certain premises that constitutes a drug-free zone for enhancement purposes;
- removes a video arcade facility as a premises that constitutes a drug-free zone for enhancement purposes for certain controlled substance manufacture or delivery offenses committed in or within a specified distance of the premises;
- removes certain state jail felony, Class A misdemeanor, and Class B misdemeanor controlled substance possession offenses from those whose penalty is enhanced if committed in certain drug-free zones; and
- prohibits a punishment increase for an applicable controlled substance offense committed in a drug-free zone if it is shown on the trial of the offense that the defendant was driving or otherwise in transit through such a zone at the time the offense occurred.

H.B. 2146 amends the Code of Criminal Procedure, Government Code, Local Government Code, and Penal Code to make conforming changes.

H.B. 2146 repeals Section 481.134(a)(6), Health and Safety Code.

EFFECTIVE DATE

September 1, 2021.