

BILL ANALYSIS

Senate Research Center

S.B. 1796
By: Estes
Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Salvia divinorum, sometimes called “diviners sage” or “new ecstasy,” is a powerful psychoactive plant used culturally by the Mazatec shamans for healing during spiritual journeys. It is readily available at tobacco shops and over the Internet, and its sale to any person, including minors, is unregulated by either the state or the federal government. Recently, people have begun using the plant recreationally. Its psychedelic effects often leave the user temporarily incapacitated and unable to function without supervision. In fact, website providers of the substance often recommend a “sober sitter” to prevent the user from doing anything dangerous that could result in bodily harm or property damage.

As proposed, S.B. 1796 makes the sale or provision of salvia divinorum to a person younger than 18 years of age, or to a person intending to provide it to a person younger than 18 years of age, a Class C misdemeanor offense.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 161, Health and Safety Code, by adding Subchapter I, as follows:

SUBCHAPTER I. SALE OF SALVIA DIVINORUM

Sec. 161.091. SALE OF SALVIA DIVINORUM TO PERSONS YOUNGER THAN 18 YEARS OF AGE PROHIBITED; PROOF OF AGE REQUIRED. (a) Provides that a person commits an offense if the person, with criminal negligence, engages in certain acts related to the sale or provision of salvia divinorum to a person younger than 18 years of age.

(b) Provides that an employee is criminally responsible and subject to prosecution if an offense occurs in connection with a sale of salvia divinorum at retail.

(c) Provides that an offense under this section is a Class C misdemeanor.

(d) Provides that it is a defense to prosecution under Subsection (a)(1) (the sale of salvia divinorum to a person under the age of 18) that the person who purchased or received salvia divinorum presented to the defendant apparently valid proof of identification (ID).

(e) Provides that an ID satisfies the requirements of Subsection (d) if it contains a physical description and photograph consistent with the person's appearance, purports to establish the person as 18 years of age or older, and was issued by a governmental agency. Provides that the ID may include a Texas or other state driver's license, a passport, or an identification card issued by a state or the federal government.

SECTION 2. Effective date: September 1, 2007.