

## **BILL ANALYSIS**

Senate Research Center  
84R578 GCB-D

S.B. 236  
By: Schwertner  
Criminal Justice  
1/23/2015  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, the sale or possession of Penalty Group 1, 2, 2-A, 3 and 4 drugs within a "drug-free zone" subjects an offender to an enhanced penalty.

In 1997, H.B. 1070, 75th Legislature, Regular Session, removed LSD's Penalty Group 1 classification and created Penalty Group 1-A to permit LSD to be punished on the basis of "abuse units" rather than weight. Unfortunately, the legislation creating Penalty Group 1-A did not also refer to this new section of law in the drug-free zones statute and LSD was effectively removed from the drug-free zone statute. It is believed this was merely an oversight.

S.B. 236 corrects this oversight to bring the penalty for the sale or possession of LSD within a drug-free zone in line with the penalty for the sale or possession of similar drugs.

During the interim, a school resource officer brought this issue to Senator Schwertner's attention when a person was arrested for selling LSD on a school campus and law enforcement was unable to pursue an enhanced penalty.

As proposed, S.B. 236 amends current law relating to the punishment of certain controlled substance offenses committed in a drug-free zone.

### **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 Sections 481.134(b), (c), and (d), Health and Safety Code, as follows:

(b) Adds Section 481.1121 (Offense: Manufacture or Delivery of Substance in Penalty Group 1-A) to the list of sections in which an offense otherwise punishable as a state jail felony is punishable as a felony of the third degree, and an offense otherwise punishable as a felony of the second degree under any of those sections is punishable as a felony of the first degree, if it is shown at the punishment phase of the trial of the offense that the offense was committed under certain circumstances.

(c) Adds Sections 481.1121(b)(2) (providing that a certain offense is a felony of the second degree under certain circumstances), (3) (providing that a certain offense is a felony of the first degree under certain circumstances), or (4) (providing that a certain offense is punishable in a certain manner), and 481.1151(b)(2) (providing that a certain offense is a felony of the third degree under certain circumstances), (3) (providing that a certain offense is a felony of the second degree under certain circumstances), (4) (providing that a certain offense is a felony of the first degree under certain circumstances), or (5) (providing that a certain offense is punishable in a certain manner) to list of sections in which the minimum term of confinement or imprisonment for an offense otherwise punishable under these sections is increased by five years and the maximum fine for the offense is doubled if it is shown on the trial of the offense that the offense was committed under certain circumstances.

(d) Adds Sections 481.1121(b)(1) and 481.1151(b)(1) to list of sections in which an offense otherwise punishable under these sections is a felony third degree if it is shown on the trial of the offense that the offense was committed under certain circumstances.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2015.