

By: Carona

S.B. No. 449

A BILL TO BE ENTITLED

AN ACT

relating to the penalty group classification of certain controlled substances.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 481.102, Health and Safety Code, is amended to read as follows:

Sec. 481.102. PENALTY GROUP 1. Penalty Group 1 consists of:

(1) the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, if the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

Alfentanil;

Allylprodine;

Alphacetylmethadol;

Benzethidine;

Betaprodine;

Clonitazene;

Diampromide;

Diethylthiambutene;

Difenoxin not listed in Penalty Group 3 or 4;

Dimenoxadol;

Dimethylthiambutene;

Dioxaphetyl butyrate;

1	Dipipanone;
2	Ethylmethylthiambutene;
3	Etonitazene;
4	Etoxeridine;
5	Furethidine;
6	Hydroxypethidine;
7	Ketobemidone;
8	Levophenacylmorphane;
9	Meprodine;
10	Methadol;
11	Moramide;
12	Morpheridine;
13	Noracymethadol;
14	Norlevorphanol;
15	Normethadone;
16	Norpipanone;
17	Phenadoxone;
18	Phenampromide;
19	Phenomorphan;
20	Phenoperidine;
21	Piritramide;
22	Proheptazine;
23	Propерidine;
24	Propiram;
25	Sufentanil;
26	Tilidine; and
27	Trimeperidine;

(2) the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, if the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

Acetorphine;  
Acetyldihydrocodeine;  
Benzylmorphine;  
Codeine methylbromide;  
Codeine-N-Oxide;  
Cyprenorphine;  
Desomorphine;  
Dihydromorphine;  
Drotebanol;  
Etorphine, except hydrochloride salt;  
Heroin;  
Hydromorphenol;  
Methyldesorphine;  
Methyldihydromorphine;  
Monoacetylmorphine;  
Morphine methylbromide;  
Morphine methylsulfonate;  
Morphine-N-Oxide;  
Myrophine;  
Nicocodeine;  
Nicomorphine;  
Normorphine;  
Pholcodine; and

1                   Thebacon;

2                   (3) the following substances, however produced,  
3 except those narcotic drugs listed in another group:

4                   (A) Opium and opiate not listed in Penalty Group  
5 3 or 4, and a salt, compound, derivative, or preparation of opium or  
6 opiate, other than thebaine derived butorphanol, nalmeferine and its  
7 salts, naloxone and its salts, and naltrexone and its salts, but  
8 including:

9                   Codeine not listed in Penalty Group 3 or 4;

10                  Dihydroetorphine;

11                  Ethylmorphine not listed in Penalty Group 3  
12 or 4;

13                  Granulated opium;

14                  Hydrocodone not listed in Penalty Group 3;

15                  Hydromorphone;

16                  Metopon;

17                  Morphine not listed in Penalty Group 3;

18                  Opium extracts;

19                  Opium fluid extracts;

20                  Oripavine;

21                  Oxycodone;

22                  Oxymorphone;

23                  Powdered opium;

24                  Raw opium;

25                  Thebaine; and

26                  Tincture of opium;

27                  (B) a salt, compound, isomer, derivative, or

1 preparation of a substance that is chemically equivalent or  
2 identical to a substance described by Paragraph (A), other than the  
3 isoquinoline alkaloids of opium;

4 (C) Opium poppy and poppy straw;

5 (D) Cocaine, including:

6 (i) its salts, its optical, position, and  
7 geometric isomers, and the salts of those isomers;

8 (ii) coca leaves and a salt, compound,  
9 derivative, or preparation of coca leaves;

10 (iii) a salt, compound, derivative, or  
11 preparation of a salt, compound, or derivative that is chemically  
12 equivalent or identical to a substance described by Subparagraph  
13 (i) or (ii), other than decocainized coca leaves or extractions of  
14 coca leaves that do not contain cocaine or ecgonine; and

15 (E) concentrate of poppy straw, meaning the crude  
16 extract of poppy straw in liquid, solid, or powder form that  
17 contains the phenanthrine alkaloids of the opium poppy;

18 (4) the following opiates, including their isomers,  
19 esters, ethers, salts, and salts of isomers, if the existence of  
20 these isomers, esters, ethers, and salts is possible within the  
21 specific chemical designation:

22 Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-  
23 phenethyl)-4-piperidinyl]-N-phenylacetamide);

24 Alpha-methylthiofentanyl (N-[1-methyl-2-(2-  
25 thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

26 Alphaprodine;

27 Anileridine;

1                   Beta-hydroxyfentanyl                   (N-[1-(2-hydroxy-2-  
2 phenethyl)-4-piperidinyl] -N-phenylpropanamide);  
3                   Beta-hydroxy-3-methylfentanyl;  
4                   Bezitramide;  
5                   Carfentanil;  
6                   Dihydrocodeine not listed in Penalty Group 3 or 4;  
7                   Diphenoxylate not listed in Penalty Group 3 or 4;  
8                   Fentanyl or alpha-methylfentanyl, or any other  
9 derivative of Fentanyl;  
10                  Isomethadone;  
11                  Levomethorphan;  
12                  Levorphanol;  
13                  Metazocine;  
14                  Methadone;  
15                  Methadone-Intermediate, 4-cyano-2-dimethylamino-  
16 4, 4-diphenyl butane;  
17                  3-methylfentanyl(N-[3-methyl-1-(2-phenylethyl)-  
18 4-piperidyl]-N-phenylpropanamide);  
19                  3-methylthiofentanyl(N-[3-methyl-1-(2-thienyl)  
20 ethyl-4-piperidinyl]-N-phenylpropanamide);  
21                  Moramide-Intermediate, 2-methyl-3-morpholino-1,  
22 1-diphenyl-propane-carboxylic acid;  
23                  Para-fluorofentanyl(N-(4-fluorophenyl)-N-1-(2-  
24 phenylethyl)-4-piperidinylpropanamide);  
25                  PEPAP                                   (1-(2-phenethyl)-4-phenyl-4-  
26 acetoxypiperidine);  
27                  Pethidine (Meperidine);

Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;

Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4 carboxylate;

Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;

Phenazocine;

Piminodine;

Racemethorphan;

Racemorphan;

Remifentanil; and

Thiofentanyl(N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide);

(5) Flunitrazepam (trade or other name: Rohypnol);

(6) Methamphetamine, including its salts, optical isomers, and salts of optical isomers;

(7) Phenylacetone and methylamine, if possessed together with intent to manufacture methamphetamine;

(8) Phencyclidine, including its salts;

(9) Gamma hydroxybutyric acid (some trade or other names: gamma hydroxybutyrate, GHB), including its salts; and

(10) Ketamine.

SECTION 2. Subsection (a), Section 481.103, Health and Safety Code, is amended to read as follows:

(a) Penalty Group 2 consists of:

(1) any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless

specifically excepted, if the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

alpha-ethyltryptamine;

alpha-methyltryptamine;

4-bromo-2, 5-dimethoxyamphetamine (some trade or other names: 4-bromo-2, 5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2, 5-DMA);

4-bromo-2, 5-dimethoxyphenethylamine;

Bufotenine (some trade and other names: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N, N-dimethyltryptamine; mappine);

Diethyltryptamine (some trade and other names: N, N-Diethyltryptamine, DET);

2, 5-dimethoxyamphetamine (some trade or other names: 2, 5-dimethoxy-alpha-methylphenethylamine; 2, 5-DMA);

2, 5-dimethoxy-4-ethylamphetamine (trade or other name: DOET);

2, 5-dimethoxy-4-(n)-propylthiophenethylamine (trade or other name: 2C-T-7);

Dimethyltryptamine (trade or other name: DMT);

Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product (some trade or other names for Dronabinol: (a6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo [b,d]pyran-1-ol or (-)-delta-9-



1 (trans)- tetrahydrocannabinol);

2 Ethylamine Analog of Phencyclidine (some trade or

3 other names: N-ethyl-1-phenylcyclohexylamine, (1-

4 phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine,

5 cyclohexamine, PCE);

6 Ibogaine (some trade or other names: 7-Ethyl-6,

7 6, beta 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5H-

8 pyrido [1', 2':1, 2] azepino [5, 4-b] indole; tabernanthe iboga.);

9 Mescaline;

10 5-methoxy-N, N-diisopropyltryptamine;

11 5-methoxy-3, 4-methylenedioxy amphetamine;

12 4-methoxyamphetamine (some trade or other names:

13 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine;

14 PMA);

15 1-methyl- 4-phenyl-4-propionoxypiperidine (MPPP,

16 PPMP);

17 4-methyl-2, 5-dimethoxyamphetamine (some trade

18 and other names: 4-methyl-2, 5-dimethoxy-alpha-

19 methylphenethylamine; "DOM"; "STP");

20 3,4-methylenedioxy methamphetamine (MDMA, MDM);

21 3,4-methylenedioxy amphetamine;

22 3,4-methylenedioxy N-ethylamphetamine (Also

23 known as N-ethyl MDA);

24 Nabilone (Another name for nabilone: (+)-trans-

25 3-(1,1-dimethylheptyl)- 6,6a, 7,8,10,10a-hexahydro-1-hydroxy- 6,

26 6-dimethyl-9H-dibenzo[b,d] pyran-9-one;

27 N-benzylpiperazine (some trade or other names:

1 BZP; 1-benzylpiperazine);  
2 N-ethyl-3-piperidyl benzilate;  
3 N-hydroxy-3,4-methylenedioxyamphetamine (Also  
4 known as N-hydroxy MDA);  
5 4-methylaminorex;  
6 N-methyl-3-piperidyl benzilate;  
7 Parahexyl (some trade or other names: 3-Hexyl-1-  
8 hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo [b, d]  
9 pyran; Synhexyl);  
10 1-Phenylcyclohexylamine;  
11 1-Piperidinocyclohexanecarbonitrile (PCC);  
12 Psilocin;  
13 Psilocybin;  
14 Pyrrolidine Analog of Phencyclidine (some trade  
15 or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP);  
16 Tetrahydrocannabinols, other than marihuana, and  
17 synthetic equivalents of the substances contained in the plant, or  
18 in the resinous extractives of Cannabis, or synthetic substances,  
19 derivatives, and their isomers with similar chemical structure and  
20 pharmacological activity such as:  
21 delta-1 cis or trans tetrahydrocannabinol,  
22 and their optical isomers;  
23 delta-6 cis or trans tetrahydrocannabinol,  
24 and their optical isomers;  
25 delta-3, 4 cis or trans  
26 tetrahydrocannabinol, and its optical isomers;  
27 compounds of these structures, regardless of

1 numerical designation of atomic positions, since nomenclature of  
2 these substances is not internationally standardized;

3 Thiophene Analog of Phencyclidine (some trade or  
4 other names: 1-[1-(2-thienyl) cyclohexyl] piperidine; 2-Thienyl  
5 Analog of Phencyclidine; TCP, TCP);

6 1-pyrrolidine (some trade or other name: TCPy);

7 1-(3-trifluoromethylphenyl)piperazine (trade or  
8 other name: TFMPP); and

9 3,4,5-trimethoxy amphetamine;

10 (2) Phenylacetone (some trade or other names:  
11 Phenyl-2-propanone; P2P, Benzylmethyl ketone, methyl benzyl  
12 ketone); and

13 (3) unless specifically excepted or unless listed in  
14 another Penalty Group, a material, compound, mixture, or  
15 preparation that contains any quantity of the following substances  
16 having a potential for abuse associated with a depressant or  
17 stimulant effect on the central nervous system:

18 Aminorex (some trade or other names: aminoxaphen;  
19 2-amino-5-phenyl-2-oxazoline; 4,5-dihydro-5-  
20 phenyl-2-oxazolamine);

21 Amphetamine, its salts, optical isomers, and  
22 salts of optical isomers;

23 Cathinone (some trade or other names: 2-amino-1-  
24 phenyl-1-propanone, alpha-aminopropiophenone, 2-  
25 aminopropiophenone);

26 Etorphine Hydrochloride;

27 Fenethylline and its salts;

Lisdexamfetamine, including its salts, isomers,  
and salts of isomers;

Mecloqualone and its salts;

Methaqualone and its salts;

Methcathinone (some trade or other names: 2-  
methylamino-propionophenone; alpha-(methylamino)propionophenone;  
2-(methylamino)-1-phenylpropan-1-one; alpha-N-  
methylaminopropionophenone; monomethylpropion; ephedrone, N-  
methylcathinone; methylcathinone; AL-464; AL-422; AL-463; and UR  
1431);

N-Ethylamphetamine, its salts, optical isomers,  
and salts of optical isomers; and

N,N-dimethylamphetamine (some trade or other  
names: N,N,alpha-trimethylbenzeneethaneamine;  
N,N,alpha-trimethylphenethylamine), its salts, optical isomers,  
and salts of optical isomers.

SECTION 3. Subsection (a), Section 481.104, Health and  
Safety Code, is amended to read as follows:

(a) Penalty Group 3 consists of:

(1) a material, compound, mixture, or preparation that  
contains any quantity of the following substances having a  
potential for abuse associated with a stimulant effect on the  
central nervous system:

Methylphenidate and its salts; and

Phenmetrazine and its salts;

(2) a material, compound, mixture, or preparation that  
contains any quantity of the following substances having a

1 potential for abuse associated with a depressant effect on the  
2 central nervous system:

3 a substance that contains any quantity of a  
4 derivative of barbituric acid, or any salt of a derivative of  
5 barbituric acid not otherwise described by this subsection;

6 a compound, mixture, or preparation containing  
7 amobarbital, secobarbital, pentobarbital, or any salt of any of  
8 these, and one or more active medicinal ingredients that are not  
9 listed in any penalty group;

10 a suppository dosage form containing amobarbital,  
11 secobarbital, pentobarbital, or any salt of any of these drugs, and  
12 approved by the United States Food and Drug Administration for  
13 marketing only as a suppository;

14 Alprazolam;

15 Amobarbital;

16 Bromazepam;

17 Camazepam;

18 Chlordiazepoxide;

19 Chlorhexadol;

20 Clobazam;

21 Clonazepam;

22 Clorazepate;

23 Clotiazepam;

24 Cloxazolam;

25 Delorazepam;

26 Diazepam;

27 Estazolam;

1 Ethyl loflazepate;  
2 Fludiazepam;  
3 Flurazepam;  
4 Glutethimide;  
5 Halazepam;  
6 Haloxzolam;  
7 Ketazolam;  
8 Loprazolam;  
9 Lorazepam;  
10 Lormetazepam;  
11 Lysergic acid, including its salts, isomers, and  
12 salts of isomers;  
13 Lysergic acid amide, including its salts,  
14 isomers, and salts of isomers;  
15 Mebutamate;  
16 Medazepam;  
17 Methyprylon;  
18 Midazolam;  
19 Nimetazepam;  
20 Nitrazepam;  
21 Nordiazepam;  
22 Oxazepam;  
23 Oxazolam;  
24 Pentazocine, its salts, derivatives, or compounds  
25 or mixtures thereof;  
26 Pentobarbital;  
27 Pinazepam;

1                   Prazepam;  
2                   Quazepam;  
3                   Secobarbital;  
4                   Sulfondiethylmethane;  
5                   Sulfonethylmethane;  
6                   Sulfonmethane;  
7                   Temazepam;  
8                   Tetrazepam;  
9                   Tiletamine and zolazepam in combination, and its  
10 salts. (some trade or other names for a tiletamine-zolazepam  
11 combination product: Telazol, for tiletamine: 2-(ethylamino)-  
12 2-(2-thienyl)-cyclohexanone, and for zolazepam: 4-(2-  
13 fluorophenyl)-6, 8-dihydro-1,3,8,-trimethylpyrazolo-[3,4-  
14 e](1,4)-d diazepin-7(1H)-one, flupyrazapon);  
15                   Triazolam;  
16                   Zaleplon; ~~and~~  
17                   Zolpidem; and  
18                   Zopiclone;  
19                   (3) Nalorphine;  
20                   (4) a material, compound, mixture, or preparation  
21 containing limited quantities of the following narcotic drugs, or  
22 any of their salts:  
23                   not more than 1.8 grams of codeine, or any of its  
24 salts, per 100 milliliters or not more than 90 milligrams per dosage  
25 unit, with an equal or greater quantity of an isoquinoline alkaloid  
26 of opium;  
27                   not more than 1.8 grams of codeine, or any of its

1 salts, per 100 milliliters or not more than 90 milligrams per dosage  
2 unit, with one or more active, nonnarcotic ingredients in  
3 recognized therapeutic amounts;

4 not more than 300 milligrams of dihydrocodeinone  
5 (hydrocodone), or any of its salts, per 100 milliliters or not more  
6 than 15 milligrams per dosage unit, with a fourfold or greater  
7 quantity of an isoquinoline alkaloid of opium;

8 not more than 300 milligrams of dihydrocodeinone  
9 (hydrocodone), or any of its salts, per 100 milliliters or not more  
10 than 15 milligrams per dosage unit, with one or more active,  
11 nonnarcotic ingredients in recognized therapeutic amounts;

12 not more than 1.8 grams of dihydrocodeine, or any  
13 of its salts, per 100 milliliters or not more than 90 milligrams per  
14 dosage unit, with one or more active, nonnarcotic ingredients in  
15 recognized therapeutic amounts;

16 not more than 300 milligrams of ethylmorphine, or  
17 any of its salts, per 100 milliliters or not more than 15 milligrams  
18 per dosage unit, with one or more active, nonnarcotic ingredients  
19 in recognized therapeutic amounts;

20 not more than 500 milligrams of opium per 100  
21 milliliters or per 100 grams, or not more than 25 milligrams per  
22 dosage unit, with one or more active, nonnarcotic ingredients in  
23 recognized therapeutic amounts;

24 not more than 50 milligrams of morphine, or any of  
25 its salts, per 100 milliliters or per 100 grams with one or more  
26 active, nonnarcotic ingredients in recognized therapeutic amounts;

27 and



not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) a material, compound, mixture, or preparation that contains any quantity of the following substances:

Barbital;  
Chloral betaine;  
Chloral hydrate;  
Ethchlorvynol;  
Ethinamate;  
Meproamate;  
Methohexital;  
Methylphenobarbital (Mephobarbital);  
Paraldehyde;  
Petrichloral; and  
Phenobarbital;

(6) Peyote, unless unharvested and growing in its natural state, meaning all parts of the plant classified botanically as Lophophora, whether growing or not, the seeds of the plant, an extract from a part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or extracts;

(7) unless listed in another penalty group, a material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including the substance's salts, optical, position, or geometric isomers, and salts of the substance's isomers, if the existence of the salts, isomers, and

1 salts of isomers is possible within the specific chemical  
2 designation:

3                   Benzphetamine;  
4                   Cathine [(+)-norpseudoephedrine];  
5                   Chlorphentermine;  
6                   Clortermine;  
7                   Diethylpropion;  
8                   Fencamfamin;  
9                   Fenfluramine;  
10                  Fenproporex;  
11                  Mazindol;  
12                  Mefenorex;  
13                  Modafinil;  
14                  Pemoline (including organometallic complexes and  
15 their chelates);  
16                  Phendimetrazine;  
17                  Phentermine;  
18                  Pipradrol;  
19                  Sibutramine; and  
20                  SPA [(-)-1-dimethylamino-1,2-diphenylethane];

21                  (8) unless specifically excepted or unless listed in  
22 another penalty group, a material, compound, mixture, or  
23 preparation that contains any quantity of the following substance,  
24 including its salts:

25                   Dextropropoxyphene (Alpha-(+)-4-dimethylamino-  
26 1,2-diphenyl-3-methyl-2-propionoxybutane); and

27                  (9) an anabolic steroid, including any drug or

hormonal substance, or any substance that is chemically or pharmacologically related to testosterone, other than an estrogen, progestin, dehydroepiandrosterone, or corticosteroid, and promotes muscle growth, including the following drugs and substances and any salt, ester, or ether of the following drugs and substances:

Androstenediol;

Androstenedione;

Androstenediol;

Androstenedione;

Bolasterone;

Boldenone;

Calusterone;

~~[Chlorotestosterone (4-chlorotestosterone);]~~

Clostebol;

Dehydrochlormethyltestosterone;

Delta-1-dihydrotestosterone;

Dihydrotestosterone (4-dihydrotestosterone);

Drostanolone;

Ethylestrenol;

Fluoxymesterone;

Formebolone;

Furazabol;

13beta-ethyl-17beta-hydroxygon-4-en-3-one;

4-hydroxytestosterone;

4-hydroxy-19-nortestosterone;

Mestanolone;

Mesterolone;

1	Methandienone;
2	[ <del>Methandranone;</del> ]
3	Methandriol;
4	[ <del>Methandrostenolone;</del> ]
5	Methenolone;
6	<u>17alpha-methyl-3beta, 17 beta-dihydroxy-5alpha-</u>
7	<u>androstane;</u>
8	<u>17alpha-methyl-3alpha, 17 beta-dihydroxy-5alpha-</u>
9	<u>androstane;</u>
10	<u>17alpha-methyl-3beta, 17beta-dihydroxyandrost-4-</u>
11	<u>ene;</u>
12	<u>17alpha-methyl-4-hydroxynandrolone;</u>
13	<u>Methyldienolone;</u>
14	Methyltestosterone;
15	<u>Methyltrienolone;</u>
16	<u>17alpha-methyl-delta-1-dihydrotestosterone;</u>
17	Mibolerone;
18	Nandrolone;
19	<u>Norandrostenediol;</u>
20	<u>Norandrostenedione;</u>
21	<u>Norbolethone;</u>
22	<u>Norclostebol;</u>
23	Norethandrolone;
24	<u>Normethandrolone;</u>
25	Oxandrolone;
26	Oxymesterone;
27	Oxymetholone;

1                    [~~Stanolone;~~]  
2                    Stanozolol;  
3                    Stenbolone;  
4                    Testolactone;  
5                    Testosterone;  
6                    Tetrahydrogestrinone; and  
7                    Trenbolone.

8            SECTION 4. The change in law made by this Act applies only  
9 to an offense committed on or after the effective date of this Act.  
10 An offense committed before the effective date of this Act is  
11 covered by the law in effect when the offense was committed, and the  
12 former law is continued in effect for that purpose. For purposes of  
13 this section, an offense was committed before the effective date of  
14 this Act if any element of the offense was committed before that  
15 date.

16            SECTION 5. This Act takes effect September 1, 2009.