

BILL ANALYSIS

C.S.H.B. 597
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The substance K2, also known by other street names, is smoked to produce intoxicating effects and is sold online and at the retail level to Texans of all ages. Users are likely unaware that smoking K2 can have dangerous health consequences. The reported side effects include hallucination, severe agitation, elevated heart rate or blood pressure, chest pains, blackouts, tremors, seizures, and cardiac infarction. According to some health authorities, the use of this substance is spreading and increasing across Texas among people of all ages and lifestyles. C.S.H.B. 597 seeks to address this problem by including various synthetic cannabinoid chemical compounds commonly found in K2 and similar products among the substances regulated by the Texas Controlled Substances Act.

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. 597 amends the Health and Safety Code to create Penalty Group 2-A of the Texas Controlled Substances Act consisting of any quantity of a synthetic chemical compound that is a cannabinoid receptor agonist and mimics the pharmacological effect of naturally occurring cannabinoids, including certain structural derivatives of specified chemicals. The bill redesignates the offense of manufacturing or delivering a substance in Penalty Group 2 to include Penalty Group 2-A and expands the conditions that constitute that offense to include knowingly manufacturing, delivering, or possessing with intent to deliver a controlled substance listed in Penalty Group 2-A.

C.S.H.B. 597 creates the offense of possession of a substance in Penalty Group 2-A. The bill makes it an offense to knowingly possess a controlled substance listed in Penalty Group 2-A, unless the person obtained the substance directly from or under a valid prescription or order of a practitioner acting in the course of professional practice. The bill establishes penalties ranging from a Class B misdemeanor to imprisonment in the Texas Department of Criminal Justice (TDCJ) for life or for a term of not more than 99 years or less than five years and a fine not to exceed \$50,000, depending on the amount by aggregate weight of the controlled substance possessed.

C.S.H.B. 597 specifies that a person does not commit the offense of possessing a Penalty Group 2-A controlled substance if the person possesses or delivers tetrahydrocannabinols or their derivatives, or drug paraphernalia to be used to introduce such substances into the human body, for use in a federally approved therapeutic research program.

C.S.H.B. 597 makes provisions of law enhancing the penalties for certain controlled substance offenses committed on specified premises considered drug-free zones apply to the offense of possession of a substance in Penalty Group 2-A offenses, other than such an offense punishable

as a misdemeanor.

C.S.H.B. 597 amends the Code of Criminal Procedure to include a person charged with a Class A misdemeanor or Class B misdemeanor possession of a Penalty Group 2-A controlled substance offense among the persons to whom a peace officer charging the person is authorized, as an alternative to taking the person before a magistrate, to issue a citation containing notice of, among other information, the time and place the person must appear before a magistrate.

C.S.H.B. 597 requires a judge, on conviction of a state jail felony possession of a Penalty Group 2-A controlled substance offense, to suspend the imposition of the sentence and place the defendant on community supervision unless the defendant has previously been convicted of a certain felony or unless the conviction resulted from an adjudication of the guilt of a defendant previously placed on deferred adjudication community supervision for the offense. The bill makes this requirement inapplicable to a defendant on conviction of a state jail felony possession of a Penalty Group 2-A controlled substance who possessed more than one pound, by aggregate weight, including adulterants or dilutants, of the controlled substance.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 597 differs from the original by creating a separate Penalty Group 2-A of the Texas Controlled Substances Act consisting of any quantity of a synthetic chemical compound that is a cannabinoid receptor agonist and mimics the pharmacological effect of naturally occurring cannabinoids, including certain structural derivatives of specified chemicals, whereas the original adds such substances to Penalty Group 2 of the act. The substitute differs from the original by including within Penalty Group 2-A various different structural derivatives of specified chemicals that qualify as such synthetic chemical compounds than are included by the original in Penalty Group 2.

C.S.H.B. 597 contains provisions not included in the original creating the offense of possession of a substance in Penalty Group 2-A, establishing a range of penalties for the offense, and specifying that a person does not commit that offense by possessing or delivering certain substances or paraphernalia for use in a federally approved therapeutic research program. The substitute contains provisions not included in the original redesignating the offense of manufacturing or delivering a substance in Penalty Group 2 to include Penalty Group 2-A and expanding the conditions that constitute the offense to account for that inclusion.

C.S.H.B. 597 contains provisions not included in the original making the enhanced penalties for certain controlled substance offenses committed on specified premises considered drug-free zones apply to specified possession of Penalty Group 2-A controlled substance offenses.

C.S.H.B. 597 contains provisions not included in the original relating to the issuance of a citation to a person charged with a misdemeanor possession of a Penalty Group 2-A controlled substance offense as an alternative to taking the person before a magistrate and relating to the placement of a person convicted of a state jail felony possession of a Penalty Group 2-A controlled substance offense on community supervision.