

By: Madden, Bonnen, Anderson of McLennan,  
Hopson, Paxton, et al.

H.B. No. 597

Substitute the following for H.B. No. 597:

By: Gallego

C.S.H.B. No. 597

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to designating certain synthetic cannabinoids as  
3 controlled substances under the Texas Controlled Substances Act;  
4 providing penalties and establishing certain criminal consequences  
5 or procedures.

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

7 SECTION 1. Subchapter D, Chapter 481, Health and Safety  
8 Code, is amended by adding Section 481.1031 to read as follows:

9 Sec. 481.1031. PENALTY GROUP 2-A. Penalty Group 2-A  
10 consists of any quantity of a synthetic chemical compound that is a  
11 cannabinoid receptor agonist and mimics the pharmacological effect  
12 of naturally occurring cannabinoids, including:

13 naphthoylindoles structurally derived from  
14 3-(1-naphthoyl)indole by substitution at the nitrogen atom of the  
15 indole ring by alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,  
16 or 2-(4-morpholinyl)ethyl, whether or not further substituted in  
17 the indole ring to any extent, whether or not substituted in the  
18 naphthyl ring to any extent, including:

19 AM-2201;

20 JWH-004;

21 JWH-007;

22 JWH-009;

23 JWH-015;

24 JWH-016;

- 1                    JWH-018;
- 2                    JWH-019;
- 3                    JWH-020;
- 4                    JWH-046;
- 5                    JWH-047;
- 6                    JWH-048;
- 7                    JWH-049;
- 8                    JWH-050;
- 9                    JWH-073;
- 10                   JWH-076;
- 11                   JWH-079;
- 12                   JWH-080;
- 13                   JWH-081;
- 14                   JWH-082;
- 15                   JWH-083;
- 16                   JWH-093;
- 17                   JWH-094;
- 18                   JWH-095;
- 19                   JWH-096;
- 20                   JWH-097;
- 21                   JWH-098;
- 22                   JWH-099;
- 23                   JWH-100;
- 24                   JWH-116;
- 25                   JWH-122;
- 26                   JWH-148;
- 27                   JWH-149;

- 1                    JWH-153;
- 2                    JWH-159;
- 3                    JWH-164;
- 4                    JWH-165;
- 5                    JWH-166;
- 6                    JWH-180;
- 7                    JWH-181;
- 8                    JWH-182;
- 9                    JWH-189;
- 10                   JWH-193;
- 11                   JWH-198;
- 12                   JWH-200;
- 13                   JWH-210;
- 14                   JWH-211;
- 15                   JWH-212;
- 16                   JWH-213;
- 17                   JWH-234;
- 18                   JWH-235;
- 19                   JWH-239;
- 20                   JWH-240;
- 21                   JWH-241;
- 22                   JWH-242;
- 23                   JWH-258;
- 24                   JWH-259;
- 25                   JWH-260;
- 26                   JWH-262;
- 27                   JWH-267;

- 1                   JWH-386;
- 2                   JWH-387;
- 3                   JWH-394;
- 4                   JWH-395;
- 5                   JWH-397;
- 6                   JWH-398;
- 7                   JWH-399;
- 8                   JWH-400;
- 9                   JWH-412;
- 10                  JWH-413; and
- 11                  JWH-414;

12                   naphthylmethylindones structurally derived from  
13 1H-indol-3-yl-(1-naphthyl)methane by substitution at the nitrogen  
14 atom of the indole ring by alkyl, alkenyl, cycloalkylmethyl,  
15 cycloalkylethyl, or 2-(4-morpholinyl)ethyl, whether or not further  
16 substituted in the indole ring to any extent, whether or not  
17 substituted in the naphthyl ring to any extent, including:

- 18                   JWH-175;
- 19                   JWH-184;
- 20                   JWH-185;
- 21                   JWH-192;
- 22                   JWH-194;
- 23                   JWH-195;
- 24                   JWH-196;
- 25                   JWH-197; and
- 26                   JWH-199;

27                   naphthoylpyrroles structurally derived from

1 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the  
2 pyrrole ring by alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,  
3 or 2-(4-morpholinyl)ethyl, whether or not further substituted in  
4 the pyrrole ring to any extent, whether or not substituted in the  
5 naphthyl ring to any extent, including:

- 6 JWH-030;
- 7 JWH-145;
- 8 JWH-146;
- 9 JWH-147;
- 10 JWH-150;
- 11 JWH-156;
- 12 JWH-243;
- 13 JWH-244;
- 14 JWH-245;
- 15 JWH-246;
- 16 JWH-292;
- 17 JWH-293;
- 18 JWH-307;
- 19 JWH-308;
- 20 JWH-309;
- 21 JWH-346;
- 22 JWH-347;
- 23 JWH-348;
- 24 JWH-363;
- 25 JWH-364;
- 26 JWH-365;
- 27 JWH-366;

- 1                   JWH-367;
- 2                   JWH-368;
- 3                   JWH-369;
- 4                   JWH-370;
- 5                   JWH-371;
- 6                   JWH-372;
- 7                   JWH-373; and
- 8                   JWH-392;

9                   naphthylmethylenes structurally derived from  
10 1-(1-naphthylmethyl)indene by substitution at the 3-position of  
11 the indene ring by alkyl, alkenyl, cycloalkylmethyl,  
12 cycloalkylethyl, or 2-(4-morpholinyl)ethyl, whether or not further  
13 substituted in the indene ring to any extent, whether or not  
14 substituted in the naphthyl ring to any extent, including:

- 15                   JWH-171;
- 16                   JWH-172;
- 17                   JWH-173; and
- 18                   JWH-176;

19                   phenylacetylindoles structurally derived from  
20 3-phenylacetylindole by substitution at the nitrogen atom of the  
21 indole ring with alkyl, alkenyl, cycloalkylmethyl,  
22 cycloalkylethyl, or 2-(4-morpholinyl)ethyl, whether or not further  
23 substituted in the indole ring to any extent, whether or not  
24 substituted in the phenyl ring to any extent, including:

- 25                   AM-694;
- 26                   AM-1241;
- 27                   JWH-167;

- 1                    JWH-203;
- 2                    JWH-204;
- 3                    JWH-205;
- 4                    JWH-206;
- 5                    JWH-208;
- 6                    JWH-237;
- 7                    JWH-248;
- 8                    JWH-249;
- 9                    JWH-250;
- 10                  JWH-251;
- 11                  JWH-252;
- 12                  JWH-253;
- 13                  JWH-302;
- 14                  JWH-303;
- 15                  JWH-305;
- 16                  JWH-306;
- 17                  JWH-311;
- 18                  JWH-312;
- 19                  JWH-313;
- 20                  JWH-314; and
- 21                  JWH-315;

22                    cyclohexylphenols structurally derived from  
23 2-(3-hydroxycyclohexyl)phenol by substitution at the 5-position of  
24 the phenolic ring by alkyl, alkenyl, cycloalkylmethyl,  
25 cycloalkylethyl, or 2-(4-morpholinyl)ethyl, whether or not  
26 substituted in the cyclohexyl ring to any extent, including:

- 27                    CP-55,940;

1                   CP-47,497;  
2                   analogues of CP-47,497, including VII, V, VIII, I,  
3 II, III, IV, IX, X, XI, XII, XIII, XV, and XVI;  
4                   JWH-337;  
5                   JWH-344;  
6                   JWH-345; and  
7                   JWH-405; and  
8                   cannabinol derivatives, except where contained in  
9 marihuana, including tetrahydro derivatives of cannabinol and  
10 3-alkyl homologues of cannabinol or of its tetrahydro derivatives,  
11 such as:  
12                   Nabilone;  
13                   HU-210;  
14                   HU-211; and  
15                   WIN-55,212-2.

16           SECTION 2. Section 481.111(c), Health and Safety Code, is  
17 amended to read as follows:

18           (c) A person does not violate Section 481.113, 481.116,  
19 481.1161, 481.121, or 481.125 if the person possesses or delivers  
20 tetrahydrocannabinols or their derivatives, or drug paraphernalia  
21 to be used to introduce tetrahydrocannabinols or their derivatives  
22 into the human body, for use in a federally approved therapeutic  
23 research program.

24           SECTION 3. The heading to Section 481.113, Health and  
25 Safety Code, is amended to read as follows:

26           Sec. 481.113. OFFENSE:       MANUFACTURE   OR   DELIVERY   OF  
27 SUBSTANCE IN PENALTY GROUP 2 OR 2-A.



1 SECTION 4. Section 481.113(a), Health and Safety Code, is  
2 amended to read as follows:

3 (a) Except as authorized by this chapter, a person commits  
4 an offense if the person knowingly manufactures, delivers, or  
5 possesses with intent to deliver a controlled substance listed in  
6 Penalty Group 2 or 2-A.

7 SECTION 5. Subchapter D, Chapter 481, Health and Safety  
8 Code, is amended by adding Section 481.1161 to read as follows:

9 Sec. 481.1161. OFFENSE: POSSESSION OF SUBSTANCE IN PENALTY  
10 GROUP 2-A. (a) Except as authorized by this chapter, a person  
11 commits an offense if the person knowingly possesses a controlled  
12 substance listed in Penalty Group 2-A, unless the person obtained  
13 the substance directly from or under a valid prescription or order  
14 of a practitioner acting in the course of professional practice.

15 (b) An offense under this section is:

16 (1) a Class B misdemeanor if the amount of the  
17 controlled substance possessed is, by aggregate weight, including  
18 adulterants or dilutants, two ounces or less;

19 (2) a Class A misdemeanor if the amount of the  
20 controlled substance possessed is, by aggregate weight, including  
21 adulterants or dilutants, four ounces or less but more than two  
22 ounces;

23 (3) a state jail felony if the amount of the controlled  
24 substance possessed is, by aggregate weight, including adulterants  
25 or dilutants, five pounds or less but more than four ounces;

26 (4) a felony of the third degree if the amount of the  
27 controlled substance possessed is, by aggregate weight, including

1 adulterants or dilutants, 50 pounds or less but more than 5 pounds;  
2 (5) a felony of the second degree if the amount of the  
3 controlled substance possessed is, by aggregate weight, including  
4 adulterants or dilutants, 2,000 pounds or less but more than 50  
5 pounds; and

6 (6) punishable by imprisonment in the Texas Department  
7 of Criminal Justice for life or for a term of not more than 99 years  
8 or less than 5 years, and a fine not to exceed \$50,000, if the amount  
9 of the controlled substance possessed is, by aggregate weight,  
10 including adulterants or dilutants, more than 2,000 pounds.

11 SECTION 6. Sections 481.134(c) and (d), Health and Safety  
12 Code, are amended to read as follows:

13 (c) The minimum term of confinement or imprisonment for an  
14 offense otherwise punishable under Section 481.112(c), (d), (e), or  
15 (f), 481.113(c), (d), or (e), 481.114(c), (d), or (e),  
16 481.115(c)-(f), 481.116(c), (d), or (e), 481.1161(b)(4), (5), or  
17 (6), 481.117(c), (d), or (e), 481.118(c), (d), or (e),  
18 481.120(b)(4), (5), or (6), or 481.121(b)(4), (5), or (6) is  
19 increased by five years and the maximum fine for the offense is  
20 doubled if it is shown on the trial of the offense that the offense  
21 was committed:

22 (1) in, on, or within 1,000 feet of the premises of a  
23 school, the premises of a public or private youth center, or a  
24 playground; or

25 (2) on a school bus.

26 (d) An offense otherwise punishable under Section  
27 481.112(b), 481.113(b), 481.114(b), 481.115(b), 481.116(b),

1 481.1161(b)(3), 481.120(b)(3), or 481.121(b)(3) is a felony of the  
2 third degree if it is shown on the trial of the offense that the  
3 offense was committed:

4 (1) in, on, or within 1,000 feet of any real property  
5 that is owned, rented, or leased to a school or school board, the  
6 premises of a public or private youth center, or a playground; or

7 (2) on a school bus.

8 SECTION 7. Article 14.06(d), Code of Criminal Procedure, is  
9 amended to read as follows:

10 (d) Subsection (c) applies only to a person charged with  
11 committing an offense under:

12 (1) Section 481.121, Health and Safety Code, if the  
13 offense is punishable under Subsection (b)(1) or (2) of that  
14 section;

15 (1-a) Section 481.1161, Health and Safety Code, if the  
16 offense is punishable under Subsection (b)(1) or (2) of that  
17 section;

18 (2) Section 28.03, Penal Code, if the offense is  
19 punishable under Subsection (b)(2) of that section;

20 (3) Section 28.08, Penal Code, if the offense is  
21 punishable under Subsection (b)(1) of that section;

22 (4) Section 31.03, Penal Code, if the offense is  
23 punishable under Subsection (e)(2)(A) of that section;

24 (5) Section 31.04, Penal Code, if the offense is  
25 punishable under Subsection (e)(2) of that section;

26 (6) Section 38.114, Penal Code, if the offense is  
27 punishable as a Class B misdemeanor; or

1 (7) Section 521.457, Transportation Code.

2 SECTION 8. Section 15(a)(1), Article 42.12, Code of  
3 Criminal Procedure, is amended to read as follows:

4 (a) (1) On conviction of a state jail felony under Section  
5 481.115(b), 481.1151(b)(1), 481.116(b), 481.1161(b)(3),  
6 481.121(b)(3), or 481.129(g)(1), Health and Safety Code, that is  
7 punished under Section 12.35(a), Penal Code, the judge shall  
8 suspend the imposition of the sentence and place the defendant on  
9 community supervision, unless the defendant has previously been  
10 convicted of a felony, other than a felony punished under Section  
11 12.44(a), Penal Code, or unless the conviction resulted from an  
12 adjudication of the guilt of a defendant previously placed on  
13 deferred adjudication community supervision for the offense, in  
14 which event the judge may suspend the imposition of the sentence and  
15 place the defendant on community supervision or may order the  
16 sentence to be executed. The provisions of this subdivision  
17 requiring the judge to suspend the imposition of the sentence and  
18 place the defendant on community supervision do not apply to a  
19 defendant who:

20 (A) under Section 481.1151(b)(1), Health and  
21 Safety Code, possessed more than five abuse units of the controlled  
22 substance;

23 (B) under Section 481.1161(b)(3), Health and  
24 Safety Code, possessed more than one pound, by aggregate weight,  
25 including adulterants or dilutants, of the controlled substance; or

26 (C) under Section 481.121(b)(3), Health and  
27 Safety Code, possessed more than one pound of marihuana.

1 SECTION 9. This Act takes effect September 1, 2011.