

By: Shapiro, et al.

S.B. No. 331

A BILL TO BE ENTITLED

AN ACT

relating to designating certain synthetic cannabinoids as controlled substances under the Texas Controlled Substances Act; providing penalties and establishing certain criminal consequences or procedures.

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

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

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

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

AM-2201;

JWH-004;

JWH-007;

JWH-009;

JWH-015;

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 naphthylmethylinrones 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 naphthylmethylindenes 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. Subsection (c), Section 481.111, Health and
17 Safety Code, is 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. Subsection (a), Section 481.113, Health and
2 Safety Code, is 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. Subsections (c) and (d), Section 481.134, Health
12 and Safety 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. Subsection (d), Article 14.06, Code of Criminal
9 Procedure, is 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. Subdivision (1), Subsection (a), Section 15,
3 Article 42.12, Code of Criminal Procedure, is amended to read as
4 follows:

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

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

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

27 (C) under Section 481.121(b)(3), Health and

S.B. No. 331

1 Safety Code, possessed more than one pound of marihuana.

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