

By: Williams

S.B. No. 1641

A BILL TO BE ENTITLED

AN ACT

relating to regulation of the manufacture, distribution, and disposition of controlled substances, precursors, and chemical laboratory apparatus; providing penalties; providing for a change in fees.

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

SECTION 1. Section 481.062(a), Health and Safety Code, is amended to read as follows:

(a) The following persons are not required to register and may possess a controlled substance under this chapter:

(1) an agent or employee of a registered manufacturer, distributor, analyzer, or dispenser of the controlled substance acting in the usual course of business or employment;

(2) a common or contract carrier, a warehouseman, or an employee of a carrier or warehouseman whose possession of the controlled substance is in the usual course of business or employment;

(3) an ultimate user or a person in possession of the controlled substance under a lawful order of a practitioner or in lawful possession of the controlled substance if it is listed in Schedule V;

(4) an officer or employee of this state, another state, a political subdivision of this state or another state, or the United States who is lawfully engaged in the enforcement of a

1 law relating to a controlled substance or drug or to a customs law
2 and authorized to possess the controlled substance in the discharge
3 of the person's official duties; ~~[or]~~

4 (5) if the substance is tetrahydrocannabinol or one of
5 its derivatives:

6 (A) a Texas Department of Health official, a
7 medical school researcher, or a research program participant
8 possessing the substance as authorized under Subchapter G; or

9 (B) a practitioner or an ultimate user possessing
10 the substance as a participant in a federally approved therapeutic
11 research program that the commissioner has reviewed and found, in
12 writing, to contain a medically responsible research protocol; or

13 (6) a person for whom registration with the United
14 States Drug Enforcement Administration is waived under 21 C.F.R.
15 Section 1301.22.

16 SECTION 2. Sections 481.063(b) and (e), Health and Safety
17 Code, are amended to read as follows:

18 (b) The director may not issue a registration to a person to
19 manufacture, distribute, analyze, dispense, or conduct research
20 with a controlled substance unless the director receives:

21 (1) a consent form signed by the person granting the
22 director the right to inspect records as required by this chapter;
23 and

24 (2) a complete set of the person's fingerprints in the
25 form and manner prescribed by the department.

26 (e) An application for registration to manufacture,
27 distribute, analyze, dispense, or conduct research with a

1 controlled substance may be denied on a finding that the applicant:

2 (1) has furnished material information in an
3 application filed under this chapter that the applicant knows is
4 false or fraudulent;

5 (2) has been convicted of or placed on community
6 supervision or other probation for:

7 (A) a felony;

8 (B) a violation of this chapter or of Chapters
9 482-485; or

10 (C) an offense reasonably related to the
11 registration sought;

12 (3) has voluntarily surrendered or has had suspended,
13 denied, or revoked a registration or application for registration
14 to manufacture, distribute, analyze, or dispense controlled
15 substances under the Federal Controlled Substances Act;

16 (4) has had suspended, probated, or revoked a
17 registration or a practitioner's license under the laws of this
18 state or another state;

19 (5) has intentionally or knowingly failed to establish
20 and maintain effective security controls against diversion of
21 controlled substances into other than legitimate medical,
22 scientific, or industrial channels as provided by federal
23 regulations or laws, this chapter, or a rule adopted under this
24 chapter;

25 (6) has intentionally or knowingly failed to maintain
26 records required to be kept by this chapter or a rule adopted under
27 this chapter;

1 (7) has refused to allow an inspection authorized by
2 this chapter or a rule adopted under this chapter;

3 (8) has intentionally or knowingly violated this
4 chapter or a rule adopted under this chapter; ~~[or]~~

5 (9) has voluntarily surrendered a registration that
6 has not been reinstated; or

7 (10) has submitted an application fee that is
8 dishonored or reversed and the person has not cured the defect after
9 reasonable notice and opportunity were provided.

10 SECTION 3. Section 481.064(a), Health and Safety Code, is
11 amended to read as follows:

12 (a) The director may charge a nonrefundable fee ~~[of not more~~
13 ~~than \$25]~~ before processing an application for annual registration
14 and may charge a late fee ~~[of not more than \$50]~~ for each
15 application for renewal the department receives after the date the
16 registration expires. The director by rule shall set the amounts of
17 the fees at the amounts that are necessary to cover the cost of
18 administering and enforcing this subchapter. Except as provided by
19 Subsection (b), registrants shall pay the fees to the director. Not
20 later than 60 days before the date the registration expires, the
21 director shall send a renewal notice to the registrant at the last
22 known address of the registrant according to department records.

23 SECTION 4. Section 481.127(a), Health and Safety Code, is
24 amended to read as follows:

25 (a) A person commits an offense if the person knowingly
26 gives, permits, or obtains unauthorized access to information
27 submitted to the director under Section 481.074(g) or 481.075.

SECTION 5. Section 481.301, Health and Safety Code, is amended to read as follows:

Sec. 481.301. IMPOSITION OF PENALTY. The department may impose an administrative penalty on a person who violates Section 481.061, 481.066, 481.067, 481.069, 481.070, 481.071, 481.072, 481.073, 481.074, 481.075, 481.077, 481.0771, 481.078, 481.080, or 481.081 or a rule or order adopted under any of those sections.

SECTION 6. (a) Sections 481.063(b) and 481.064(a), Health and Safety Code, as amended by this Act, apply only to a registration that is issued or renewed on or after the effective date of this Act. A registration issued or renewed before the effective date of this Act is governed by the law in effect on the date the registration was issued or renewed, and the former law is continued in effect for that purpose.

(b) Section 481.063(e), Health and Safety Code, as amended by this Act, applies only to an application for registration, including a renewal application, submitted on or after the effective date of this Act. An application submitted before the effective date of this Act is governed by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose.

(c) Section 481.301, Health and Safety Code, as amended by this Act, applies only to a violation that occurs on or after the effective date of this Act. A violation that occurs before that date is governed by the law in effect on the date the violation occurred, and the former law is continued in effect for that purpose.

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1 SECTION 7. This Act takes effect September 1, 2013.