

By: Dutton

H.B. No. 3889

A BILL TO BE ENTITLED

AN ACT

relating to adding certain substances to Penalty Group 2 of the Texas Controlled Substances Act for purposes of criminal prosecutions involving those substances, increasing penalties for the manufacture of, delivery of, or possession with the intent to deliver certain controlled substances, and a pilot program for field testing for controlled substances.

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

SECTION 1. Chapter 411, Government Code, is amended by adding Subchapter P to read as follows:

SUBCHAPTER P. FIELD TESTING PILOT PROGRAM

Sec. 411.451. PURPOSE. The field testing pilot program is intended to examine the feasibility and desirability of equipping peace officers with field testing kits that identify whether a substance is a controlled substance prohibited under Chapter 481, Health and Safety Code.

Sec. 411.452. PARTICIPATION. The department shall designate at least five local law enforcement agencies in various regions of the state to participate in the program and equip officers in those agencies with field testing kits.

Sec. 411.453. ADMISSIBILITY. The result of a test from a field testing kit is not admissible in any criminal, civil, or administrative proceeding.

Sec. 411.454. REPORT. Not later than December 1, 2016, the

department shall submit to the governor, lieutenant governor, speaker of the house of representatives, and standing committees of the senate and house of representatives with jurisdiction over criminal justice issues a report evaluating:

(1) the technical capabilities and accuracy of the technology used in the pilot program;

(2) the potential impact on criminal justice in this state if field testing were implemented statewide;

(3) any cost savings anticipated from the use of the field testing kits; and

(4) the acceptance of field testing as evidence in the courts of this state.

Sec. 411.455. EXPIRATION. This subchapter expires August 31, 2017.

SECTION 2. Section 481.103(a), 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);

1 4-bromo-2, 5-dimethoxyphenethylamine;
2 Bufotenine (some trade and other names: 3-(beta-
3 Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)- 5-
4 indolol; N, N-dimethylserotonin; 5-hydroxy-N, N-
5 dimethyltryptamine; mappine);
6 Diethyltryptamine (some trade and other
7 names: N, N-Diethyltryptamine, DET);
8 2, 5-dimethoxyamphetamine (some trade or other
9 names: 2, 5-dimethoxy-alpha-methylphenethylamine; 2, 5-DMA);
10 2, 5-dimethoxy-4-ethylamphetamine (trade or other
11 name: DOET);
12 2, 5-dimethoxy-4-(n)-propylthiophenethylamine
13 (trade or other name: 2C-T-7);
14 Dimethyltryptamine (trade or other name: DMT);
15 Dronabinol (synthetic) in sesame oil and
16 encapsulated in a soft gelatin capsule in a U.S. Food and Drug
17 Administration approved drug product (some trade or other names for
18 Dronabinol: (a6aR-trans)-6a,7,8,10a-tetrahydro- 6,6, 9-
19 trimethyl-3-pentyl-6H- dibenzo [b,d]pyran-1-ol or (-)-delta-9-
20 (trans)- tetrahydrocannabinol);
21 Ethylamine Analog of Phencyclidine (some trade or
22 other names: N-ethyl-1-phenylcyclohexylamine, (1-
23 phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine,
24 cyclohexamine, PCE);
25 Ibogaine (some trade or other names: 7-Ethyl-6,
26 6, beta 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5H-
27 pyrido [1', 2':1, 2] azepino [5, 4-b] indole; tabernanthe iboga.);

1 Mescaline;

2 5-methoxy-N, N-diisopropyltryptamine;

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

4 4-methoxyamphetamine (some trade or other

5 names: 4-methoxy-alpha-methylphenethylamine;

6 paramethoxyamphetamine; PMA);

7 methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-

8 carboxamido)-3,3-dimethylbutanoate;

9 1-methyl- 4-phenyl-4-propionoxypiperidine (MPPP,

10 PPMP);

11 4-methyl-2, 5-dimethoxyamphetamine (some trade

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

13 methylphenethylamine; "DOM"; "STP");

14 3,4-methylenedioxy methamphetamine (MDMA, MDM);

15 3,4-methylenedioxy amphetamine;

16 3,4-methylenedioxy N-ethylamphetamine (Also

17 known as N-ethyl MDA);

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

19 3-(1,1-dimethylheptyl)- 6,6a, 7,8,10,10a-hexahydro-1-hydroxy- 6,

20 6-dimethyl-9H-dibenzo[b,d] pyran-9-one;

21 N-(1-amino-3-phenyl-1-oxopropan-2-yl)-1-(5-

22 fluoropentyl)-1H-indole-3-carboxamide;

23 N-(1-amino-3-phenyl-1-oxopropan-2-yl)-1-(5-

24 fluoropentyl)-1H-indazole-3-carboxamide;

25 N-benzylpiperazine (some trade or other

26 names: BZP; 1-benzylpiperazine);

27 N-ethyl-3-piperidyl benzilate;

1 N-hydroxy-3,4-methylenedioxyamphetamine (Also
2 known as N-hydroxy MDA);
3 4-methylaminorex;
4 N-methyl-3-piperidyl benzilate;
5 Parahexyl (some trade or other names: 3-Hexyl-1-
6 hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo [b, d]
7 pyran; Synhexyl);
8 1-Phenylcyclohexylamine;
9 1-Piperidinocyclohexanecarbonitrile (PCC);
10 Psilocin;
11 Psilocybin;
12 Pyrrolidine Analog of Phencyclidine (some trade
13 or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP);
14 Tetrahydrocannabinols, other than marihuana, and
15 synthetic equivalents of the substances contained in the plant, or
16 in the resinous extractives of Cannabis, or synthetic substances,
17 derivatives, and their isomers with similar chemical structure and
18 pharmacological activity such as:
19 delta-1 cis or trans tetrahydrocannabinol,
20 and their optical isomers;
21 delta-6 cis or trans tetrahydrocannabinol,
22 and their optical isomers;
23 delta-3, 4 cis or trans
24 tetrahydrocannabinol, and its optical isomers;
25 compounds of these structures, regardless of
26 numerical designation of atomic positions, since nomenclature of
27 these substances is not internationally standardized;

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

1-pyrrolidine (some trade or other name: TCPy);
1-(3-trifluoromethylphenyl)piperazine (trade or other name: TFMPP); and

3,4,5-trimethoxy amphetamine;

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

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

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

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

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

Etorphine Hydrochloride;

Fenethylamine and its salts;

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

1 Mecloqualone and its salts;
2 Methaqualone and its salts;
3 Methcathinone (some trade or other names: 2-
4 methylamino-propionophenone; alpha-(methylamino)propionophenone;
5 2-(methylamino)-1-phenylpropan-1-one; alpha-N-
6 methylaminopropionophenone; monomethylpropion; ephedrone, N-
7 methylcathinone; methylcathinone; AL-464; AL-422; AL-463; and UR
8 1431);
9 N-Ethylamphetamine, its salts, optical isomers,
10 and salts of optical isomers; and
11 N,N-dimethylamphetamine (some trade or other
12 names: N,N,alpha-trimethylbenzeneethaneamine;
13 N,N,alpha-trimethylphenethylamine), its salts, optical isomers,
14 and salts of optical isomers; and
15 (4) any compound structurally derived from
16 2-aminopropanal by substitution at the 1-position with any
17 monocyclic or fused-polycyclic ring system, including:
18 (A) compounds further modified by:
19 (i) substitution in the ring system to any
20 extent (including alkyl, alkoxy, alkylendioxy, haloalkyl, or
21 halide substituents), whether or not further substituted in the
22 ring system by other substituents;
23 (ii) substitution at the 3-position with an
24 alkyl substituent; or
25 (iii) substitution at the 2-amino nitrogen
26 atom with alkyl or dialkyl groups, or inclusion of the 2-amino
27 nitrogen atom in a cyclic structure; and

(B) by example, compounds such as:

4-Methylmethcathinone (Also known as
Mephedrone);

3,4-Dimethylmethcathinone (Also known as
3,4-DMMC);

3-Fluoromethcathinone (Also known as 3-FMC);
4-Fluoromethcathinone (Also known as
Flephedrone);

3,4-Methylenedioxy-N-methylcathinone (Also
known as Methylone);

3,4-Methylenedioxypyrovalerone (Also known
as MDPV);

alpha-Pyrrolidinopentiophenone (Also known
as alpha-PVP);

Naphthylpyrovalerone (Also known as
Naphyrone);

beta-Keto-N-methylbenzodioxolylpropylamine
(Also known as Butylone);

beta-Keto-N-methylbenzodioxolylpentanamine
(Also known as Pentylone);

beta-Keto-Ethylbenzodioxolylbutanamine
(Also known as Eutylone); and

3,4-methylenedioxy-N-ethylcathinone (Also
known as Ethylone).

SECTION 3. Section [481.119\(a\)](#), Health and Safety Code, is
amended to read as follows:

(a) A person commits an offense if the person knowingly

1 manufactures, delivers, or possesses with intent to deliver a
2 controlled substance listed in a schedule by an action of the
3 commissioner under this chapter but not listed in a penalty group.
4 An offense under this subsection is a state jail felony [~~Class A~~
5 ~~misdemeanor~~].

6 SECTION 4. Sections 481.134(d) and (e), Health and Safety
7 Code, are amended to read as follows:

8 (d) An offense otherwise punishable under Section
9 481.112(b), 481.113(b), 481.114(b), 481.115(b), 481.116(b),
10 481.1161(b)(3), 481.119(a), 481.120(b)(3), or 481.121(b)(3) is a
11 felony of the third degree if it is shown on the trial of the offense
12 that the offense was committed:

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

16 (2) on a school bus.

17 (e) An offense otherwise punishable under Section
18 481.117(b), [~~481.119(a)~~], 481.120(b)(2), or 481.121(b)(2) is a
19 state jail felony if it is shown on the trial of the offense that the
20 offense was committed:

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

24 (2) on a school bus.

25 SECTION 5. The change in law made by this Act applies only
26 to an offense committed on or after the effective date of this Act.
27 An offense committed before the effective date of this Act is

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1 governed by the law in effect when the offense was committed, and
2 the former law is continued in effect for that purpose. For
3 purposes of this section, an offense was committed before the
4 effective date of this Act if any element of the offense occurred
5 before that date.

6 SECTION 6. This Act takes effect September 1, 2015.