

By: Taylor of Collin

S.B. No. 1582

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the scheduling of controlled substances and the  
3 designation and emergency scheduling of certain substances as  
4 hazardous controlled substances; creating criminal offenses.

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

6 SECTION 1. This Act shall be known as the Montana Brown Act.

7 SECTION 2. Section 481.036(c), Health and Safety Code, is  
8 amended to read as follows:

9 (c) An action by the commissioner that establishes or  
10 modifies a schedule under this subchapter may take effect not  
11 earlier than the 21st day after the date on which the schedule or  
12 modification is published in the Texas Register unless an emergency  
13 exists that necessitates earlier action to avoid an imminent hazard  
14 to the public safety. The commissioner may determine that an  
15 imminent hazard to the public safety exists if the commissioner  
16 makes findings with respect to each of the factors listed in  
17 Sections 481.034(d)(4), (5), and (6) that indicate that the  
18 substance poses a danger to health and safety if not immediately  
19 controlled.

20 SECTION 3. Subtitle C, Title 6, Health and Safety Code, is  
21 amended by adding Chapter 488 to read as follows:

22 CHAPTER 488. HAZARDOUS CONTROLLED SUBSTANCE EMERGENCY SCHEDULING

23 Sec. 488.001. DEFINITIONS. In this chapter, "commissioner"  
24 and "controlled substance" have the meanings assigned by Chapter

1 481.

2 Sec. 488.002. DESIGNATION OF HAZARDOUS CONTROLLED  
3 SUBSTANCE; CRITERIA. When the commissioner under Section 481.032  
4 modifies Schedule I to add a controlled substance, the commissioner  
5 at that time may designate the substance as a hazardous controlled  
6 substance if the commissioner:

7 (1) finds that the substance:

8 (A) is chemically similar in structure or effect  
9 to a controlled substance listed in a penalty group under  
10 Subchapter D, Chapter 481; or

11 (B) poses an imminent danger to life or health;  
12 and

13 (2) receives approval for the hazardous controlled  
14 substance designation from the governor, lieutenant governor, and  
15 attorney general.

16 Sec. 488.003. EMERGENCY SCHEDULING. (a) The commissioner  
17 shall publish a list of the controlled substances that are  
18 designated as hazardous controlled substances by filing a certified  
19 copy of the list with the secretary of state for publication in the  
20 Texas Register at the time the commissioner files a copy of the  
21 schedules under Section 481.036.

22 (b) The designation of a substance as a hazardous controlled  
23 substance takes effect on the date the modification that added the  
24 substance to Schedule I takes effect according to Section  
25 481.036(c).

26 Sec. 488.004. OFFENSE: MANUFACTURE OR DELIVERY OF  
27 HAZARDOUS CONTROLLED SUBSTANCE. (a) A person commits an offense

1 if the person knowingly manufactures, delivers, or possesses with  
2 intent to deliver a controlled substance designated as a hazardous  
3 controlled substance under this chapter.

4 (b) An offense under Subsection (a) is a Class A misdemeanor  
5 if the amount of the controlled substance to which the offense  
6 applies is, by aggregate weight, including adulterants or  
7 dilutants, less than 28 grams.

8 (c) An offense under Subsection (a) is a state jail felony  
9 if the amount of the controlled substance to which the offense  
10 applies is, by aggregate weight, including adulterants or  
11 dilutants, 28 grams or more but less than 200 grams.

12 (d) An offense under Subsection (a) is a felony of the third  
13 degree if the amount of the controlled substance to which the  
14 offense applies is, by aggregate weight, including adulterants or  
15 dilutants, 200 grams or more but less than 400 grams.

16 (e) An offense under Subsection (a) is a felony of the  
17 second degree if the amount of the controlled substance to which the  
18 offense applies is, by aggregate weight, including adulterants or  
19 dilutants, 400 grams or more.

20 Sec. 488.005. OFFENSE: POSSESSION OF HAZARDOUS CONTROLLED  
21 SUBSTANCE. (a) A person commits an offense if the person  
22 knowingly possesses a controlled substance designated as a  
23 hazardous controlled substance under this chapter.

24 (b) An offense under Subsection (a) is a Class B misdemeanor  
25 if the amount of the controlled substance possessed is, by  
26 aggregate weight, including adulterants or dilutants, less than 28  
27 grams.

1       (c) An offense under Subsection (a) is a Class A misdemeanor  
2 if the amount of the controlled substance possessed is, by  
3 aggregate weight, including adulterants or dilutants, 28 grams or  
4 more but less than 200 grams.

5       (d) An offense under Subsection (a) is a state jail felony  
6 if the amount of the controlled substance possessed is, by  
7 aggregate weight, including adulterants or dilutants, 200 grams or  
8 more but less than 400 grams.

9       (e) An offense under Subsection (a) is a felony of the third  
10 degree if the amount of the controlled substance possessed is, by  
11 aggregate weight, including adulterants or dilutants, 400 grams or  
12 more.

13       Sec. 488.006. EFFECT ON OTHER PROVISIONS OF SUBTITLE. If  
14 conduct that is an offense under this chapter is also an offense  
15 under another provision of this subtitle, the actor may be  
16 prosecuted under either this chapter or the other provision or  
17 both.

18       Sec. 488.007. APPLICABILITY. This chapter does not apply  
19 to a controlled substance that is listed in a penalty group under  
20 Subchapter D, Chapter 481.

21       Sec. 488.008. EXPIRATION. The designation of a controlled  
22 substance as a hazardous controlled substance expires on September  
23 1 of each odd-numbered year for any designation in effect before  
24 January 1 of that year.

25       SECTION 4. This Act takes effect September 1, 2015.