

By: Taylor of Collin

S.B. No. 1582

A BILL TO BE ENTITLED

AN ACT

relating to the designation of certain substances as hazardous controlled substances; providing penalties.

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

SECTION 1. Subtitle C, Title 6, Health and Safety Code, is amended by adding Chapter 488 to read as follows:

CHAPTER 488. HAZARDOUS CONTROLLED SUBSTANCE DESIGNATION

Sec. 488.001. DEFINITIONS. In this chapter, "commissioner" and "controlled substance" have the meanings assigned by Chapter 481.

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

(1) finds that the substance:

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

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

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

1       Sec. 488.003. PUBLICATION; EFFECTIVE DATE. (a) The  
2 commissioner shall publish a list of the controlled substances that  
3 are designated as hazardous controlled substances by filing a  
4 certified copy of the list with the secretary of state for  
5 publication in the Texas Register at the time the commissioner  
6 files a copy of the schedules under Section 481.036.

7       (b) The designation of a substance as a hazardous controlled  
8 substance takes effect on the date the modification that added the  
9 substance to Schedule I takes effect according to Section  
10 481.036(c).

11       Sec. 488.004. OFFENSE: MANUFACTURE OR DELIVERY OF HAZARDOUS  
12 CONTROLLED SUBSTANCE. (a) A person commits an offense if the  
13 person knowingly manufactures, delivers, or possesses with intent  
14 to deliver a controlled substance designated as a hazardous  
15 controlled substance under this chapter.

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

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

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

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

5       Sec. 488.005. OFFENSE: POSSESSION OF HAZARDOUS CONTROLLED  
6 SUBSTANCE. (a) A person commits an offense if the person knowingly  
7 possesses a controlled substance designated as a hazardous  
8 controlled substance under this chapter.

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

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

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

21       (e) An offense under Subsection (a) is a felony of the third  
22 degree if the amount of the controlled substance possessed is, by  
23 aggregate weight, including adulterants or dilutants, 400 grams or  
24 more.

25       Sec. 488.006. EFFECT ON OTHER PROVISIONS OF SUBTITLE. If  
26 conduct that is an offense under this chapter is also an offense  
27 under another provision of this subtitle, the actor may be

1 prosecuted under either this chapter or the other provision or  
2 both.

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

6 Sec. 488.008. EXPIRATION. The designation of a controlled  
7 substance as a hazardous controlled substance expires on September  
8 1 of each odd-numbered year for any designation in effect before  
9 January 1 of that year.

10 SECTION 2. This Act takes effect September 1, 2015.