

By: Price

H.B. No. 2804

A BILL TO BE ENTITLED

AN ACT

relating to the emergency scheduling of certain controlled substances for the purpose of the prosecution and punishment of certain offenses under the Texas Controlled Substances Act; expanding the application of certain criminal offenses.

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

SECTION 1. The heading to Section 481.0355, Health and Safety Code, is amended to read as follows:

Sec. 481.0355. EMERGENCY SCHEDULING; LEGISLATIVE REPORT.

SECTION 2. Section 481.0355, Health and Safety Code, is amended by amending Subsections (c), (d), (f), and (g) and adding Subsections (f-1) and (h) to read as follows:

(c) Before emergency scheduling a substance as a controlled substance under this section, the commissioner shall consult with the Department of Public Safety [~~regarding the chemical structure of compounds contained in that substance,~~] and may emergency schedule the substance only in accordance with any recommendations provided by the department.

(d) In determining whether a substance poses an imminent hazard to the public safety, the commissioner shall consider [~~in addition to the factors provided by Section 481.034(d)~~]:

(1) the scope, duration, [~~and~~] symptoms, or significance of abuse;

(2) the degree of detriment that abuse of the

1 substance may cause;

2 (3) whether the substance has been temporarily
3 scheduled under federal law; and

4 (4) whether the substance has been temporarily or
5 permanently scheduled under the law of another state.

6 (f) Except as otherwise provided by Subsection (f-1), an
7 ~~An~~ emergency scheduling under this section expires on September 1
8 of each odd-numbered year for any scheduling that occurs before
9 January 1 of that year.

10 (f-1) The commissioner may extend the emergency scheduling
11 of a substance under this section not more than once and for a
12 period not to exceed one year by publishing the extension in the
13 Texas Register. If the commissioner extends the emergency
14 scheduling of a substance, an emergency exists for purposes of
15 Section 481.036(c) and the action takes effect on the date the
16 extension is published in the Texas Register.

17 (g) The commissioner shall post notice about each emergency
18 scheduling of a substance or each extension of an emergency
19 scheduling of a substance under this section on the Internet
20 website of the Department of State Health Services.

21 (h) Not later than December 1 of each even-numbered year,
22 the commissioner shall submit a report about each emergency
23 scheduling action taken under this section during the preceding
24 two-year period to the governor, the lieutenant governor, the
25 speaker of the house of representatives, and each legislative
26 standing committee with primary jurisdiction over the department
27 and each legislative standing committee with primary jurisdiction

1 over criminal justice matters.

2 SECTION 3. (a) Sections 481.0355(c) and (d), Health and
3 Safety Code, as amended by this Act, apply only to a controlled
4 substance emergency scheduled under that section on or after the
5 effective date of this Act.

6 (b) Section 481.0355(f-1), Health and Safety Code, as added
7 by this Act, applies to an extension that occurs on or after the
8 effective date of this Act, regardless of whether the controlled
9 substance was emergency scheduled under Section 481.0355, Health
10 and Safety Code, before, on, or after that date.

11 SECTION 4. This Act takes effect September 1, 2017.