

By: Moody

H.B. No. 2593

A BILL TO BE ENTITLED

AN ACT

relating to the criminal penalties for the possession of certain tetrahydrocannabinols under the Texas Controlled Substances Act.

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

SECTION 1. Sections 481.002(5) and (6), Health and Safety Code, are amended to read as follows:

(5) "Controlled substance" means a substance, including a drug, an adulterant, and a dilutant, listed in Schedules I through V or Penalty Group 1, 1-A, 2, 2-A, 2-B, 3, or 4. The term includes the aggregate weight of any mixture, solution, or other substance containing a controlled substance. The term does not include hemp, as defined by Section 121.001, Agriculture Code, or the tetrahydrocannabinols in hemp.

(6) "Controlled substance analogue" means:

(A) a substance with a chemical structure substantially similar to the chemical structure of a controlled substance in Schedule I or II or Penalty Group 1, 1-A, 2, ~~[or]~~ 2-A, or 2-B; or

(B) a substance specifically designed to produce an effect substantially similar to, or greater than, the effect of a controlled substance in Schedule I or II or Penalty Group 1, 1-A, 2, ~~[or]~~ 2-A, or 2-B.

SECTION 2. Section 481.103(a), Health and Safety Code, is amended to read as follows:

1 (a) Penalty Group 2 consists of:

2 (1) any quantity of the following hallucinogenic
3 substances, their salts, isomers, and salts of isomers, unless
4 specifically excepted, if the existence of these salts, isomers,
5 and salts of isomers is possible within the specific chemical
6 designation:

7 5-(2-aminopropyl)benzofuran (5-APB);

8 6-(2-aminopropyl)benzofuran (6-APB);

9 5-(2-aminopropyl)-2,3-dihydrobenzofuran
10 (5-APDB);

11 6-(2-aminopropyl)-2,3-dihydrobenzofuran
12 (6-APDB);

13 5-(2-aminopropyl)indole (5-IT,5-API);

14 6-(2-aminopropyl)indole (6-IT,6-API);

15 1-(benzofuran-5-yl)-N-methylpropan-2-amine
16 (5-MAPB);

17 1-(benzofuran-6-yl)-N-methylpropan-2-amine
18 (6-MAPB);

19 Benzothiophenylcyclohexylpiperidine (BTCP);

20 8-bromo-alpha-methyl-benzo[1,2-b:4,5-b']difuran-
21 4-ethanamine (trade or other name: Bromo-DragonFLY);

22 Desoxypipradrol (2-benzhydrylpiperidine);

23 2, 5-dimethoxyamphetamine (some trade or other
24 names: 2, 5-dimethoxy-alpha-methylphenethylamine; 2, 5-DMA);

25 Diphenylprolinol (diphenyl(pyrrolidin-2-yl)
26 methanol, D2PM);

27 Dronabinol (synthetic) in sesame oil and

1 encapsulated in a soft gelatin capsule in a U.S. Food and Drug
2 Administration approved drug product (some trade or other names for
3 Dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro- 6,6, 9-
4 trimethyl-3-pentyl-6H- dibenzo [b,d]pyran-1-ol or (-)-delta-9-
5 (trans)- tetrahydrocannabinol);

6 Ethylamine Analog of Phencyclidine (some trade or
7 other names: N-ethyl-1-phenylcyclohexylamine, (1-
8 phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine,
9 cyclohexamine, PCE);

10 2-ethylamino-2-(3-methoxyphenyl)cyclohexanone
11 (trade or other name: methoxetamine);

12 Ibogaine (some trade or other names: 7-Ethyl-6,
13 6, beta 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5H-
14 pyrido [1', 2':1, 2] azepino [5, 4-b] indole; tabernanthe iboga.);

15 5-iodo-2-aminoindane (5-IAI);

16 Mescaline;

17 5-methoxy-3, 4-methylenedioxy amphetamine;

18 4-methoxyamphetamine (some trade or other
19 names: 4-methoxy-alpha-methylphenethylamine;
20 paramethoxyamphetamine; PMA);

21 4-methoxymethamphetamine (PMMA);

22 2-(2-methoxyphenyl)-2-(methylamino)cyclohexanone
23 (some trade and other names: 2-MeO-ketamine; methoxyketamine);

24 1-methyl- 4-phenyl-4-propionoxypiperidine (MPPP,
25 PPMP);

26 4-methyl-2, 5-dimethoxyamphetamine (some trade
27 and other names: 4-methyl-2, 5-dimethoxy-alpha-

1 methylphenethylamine; "DOM"; "STP");
2 3,4-methylenedioxy methamphetamine (MDMA, MDM);
3 3,4-methylenedioxy amphetamine;
4 3,4-methylenedioxy N-ethylamphetamine (Also
5 known as N-ethyl MDA);
6 5,6-methylenedioxy-2-aminoindane (MDAI);
7 Nabilone (Another name for nabilone: (+)-trans-
8 3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,
9 6-dimethyl-9H-dibenzo[b,d]pyran-9-one;
10 N-benzylpiperazine (some trade or other
11 names: BZP; 1-benzylpiperazine);
12 N-ethyl-3-piperidyl benzilate;
13 N-hydroxy-3,4-methylenedioxyamphetamine (Also
14 known as N-hydroxy MDA);
15 4-methylaminorex;
16 N-methyl-3-piperidyl benzilate;
17 Parahexyl (some trade or other names: 3-Hexyl-1-
18 hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]
19 pyran; Synhexyl);
20 1-Phenylcyclohexylamine;
21 1-Piperidinocyclohexanecarbonitrile (PCC);
22 Pyrrolidine Analog of Phencyclidine (some trade
23 or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP);
24 ~~[Tetrahydrocannabinols, other than marijuana, and~~
25 ~~synthetic equivalents of the substances contained in the plant, or~~
26 ~~in the resinous extractives of Cannabis, or synthetic substances,~~
27 ~~derivatives, and their isomers with similar chemical structure and~~

1 ~~pharmacological activity such as:~~

2 ~~[delta-1 cis or trans tetrahydrocannabinol,~~
3 ~~and their optical isomers;~~

4 ~~[delta-6 cis or trans tetrahydrocannabinol,~~
5 ~~and their optical isomers;~~

6 ~~[delta-3, 4 cis or trans~~
7 ~~tetrahydrocannabinol, and its optical isomers; or~~

8 ~~[compounds of these structures, regardless~~
9 ~~of numerical designation of atomic positions, since nomenclature of~~
10 ~~these substances is not internationally standardized;]~~

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

14 1-pyrrolidine (some trade or other name: TCPy);

15 1-(3-trifluoromethylphenyl)piperazine (trade or
16 other name: TFMPP); and

17 3,4,5-trimethoxy amphetamine;

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

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

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

1 phenyl-2-oxazolamine);
2 Amphetamine, its salts, optical isomers, and
3 salts of optical isomers;
4 Cathinone (some trade or other names: 2-amino-1-
5 phenyl-1-propanone, alpha-aminopropiophenone, 2-
6 aminopropiophenone);
7 Etaqualone and its salts;
8 Etorphine Hydrochloride;
9 Fenethylline and its salts;
10 Lisdexamfetamine, including its salts, isomers,
11 and salts of isomers;
12 Mecloqualone and its salts;
13 Methaqualone and its salts;
14 Methcathinone (some trade or other names: 2-
15 methylamino-propriophenone; alpha-(methylamino)propriophenone;
16 2-(methylamino)-1-phenylpropan-1-one; alpha-N-
17 methylaminopropriophenone; monomethylpropion; ephedrone, N-
18 methylcathinone; methylcathinone; AL-464; AL-422; AL-463; and UR
19 1431);
20 N-Ethylamphetamine, its salts, optical isomers,
21 and salts of optical isomers; and
22 N,N-dimethylamphetamine (some trade or other
23 names: N,N,alpha-trimethylbenzeneethanamine;
24 N,N,alpha-trimethylphenethylamine), its salts, optical isomers,
25 and salts of optical isomers;
26 (4) any compound structurally derived from
27 2-aminopropanal by substitution at the 1-position with any

1 monocyclic or fused-polycyclic ring system, including:

2 (A) compounds further modified by:

3 (i) substitution in the ring system to any
4 extent (including alkyl, alkoxy, alkylendioxy, haloalkyl, or
5 halide substituents), whether or not further substituted in the
6 ring system by other substituents;

7 (ii) substitution at the 3-position with an
8 alkyl substituent; or

9 (iii) substitution at the 2-amino nitrogen
10 atom with alkyl, benzyl, dialkyl, or methoxybenzyl groups, or
11 inclusion of the 2-amino nitrogen atom in a cyclic structure; and

12 (B) by example, compounds such as:

13 4-Methylmethcathinone (Also known as
14 Mephedrone);

15 3,4-Dimethylmethcathinone (Also known as
16 3,4-DMMC);

17 3-Fluoromethcathinone (Also known as 3-FMC);

18 4-Fluoromethcathinone (Also known as
19 Flephedrone);

20 3,4-Methylenedioxy-N-methylcathinone (Also
21 known as Methylone);

22 3,4-Methylenedioxypropylvalerone (Also known
23 as MDPV);

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

26 Naphthylpyrovalerone (Also known as
27 Naphyrone);

1 alpha-Methylamino-valerophenone (Also known
2 as Pentedrone);

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

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

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

9 3,4-methylenedioxy-N-ethylcathinone (Also
10 known as Ethylone);

11 (5) any compound structurally derived from tryptamine
12 (3-(2-aminoethyl)indole) or a ring-hydroxy tryptamine:

13 (A) by modification in any of the following ways:

14 (i) by substitution at the amine nitrogen
15 atom of the sidechain to any extent with alkyl or alkenyl groups or
16 by inclusion of the amine nitrogen atom of the side chain (and no
17 other atoms of the side chain) in a cyclic structure;

18 (ii) by substitution at the carbon atom
19 adjacent to the nitrogen atom of the side chain (alpha-position)
20 with an alkyl or alkenyl group;

21 (iii) by substitution in the 6-membered
22 ring to any extent with alkyl, alkoxy, haloalkyl, thioalkyl,
23 alkylenedioxy, or halide substituents; or

24 (iv) by substitution at the 2-position of
25 the tryptamine ring system with an alkyl substituent; and

26 (B) including:

27 (i) ethers and esters of the controlled

1 substances listed in this subdivision; and

2 (ii) by example, compounds such as:

3 alpha-ethyltryptamine;

4 alpha-methyltryptamine;

5 Bufotenine (some trade and other names:

6 3-(beta-Dimethylaminoethyl)-5-hydroxyindole;

7 3-(2-dimethylaminoethyl)- 5- indolol; N, N-dimethylserotonin;

8 5-hydroxy-N, N- dimethyltryptamine; mappine);

9 Diethyltryptamine (some trade and
10 other names: N, N-Diethyltryptamine, DET);

11 Dimethyltryptamine (trade or other
12 name: DMT);

13 5-methoxy-N, N-diisopropyltryptamine
14 (5-MeO-DiPT);

15 O-Acetylpsilocin (Trade or other name:
16 4-Aco-DMT);

17 Psilocin; and

18 Psilocybin;

19 (6) 2,5-Dimethoxyphenethylamine and any compound
20 structurally derived from 2,5-Dimethoxyphenethylamine by
21 substitution at the 4-position of the phenyl ring to any extent
22 (including alkyl, alkoxy, alkylendioxy, haloalkyl, or halide
23 substituents), including, by example, compounds such as:

24 4-Bromo-2,5-dimethoxyphenethylamine (trade or
25 other name: 2C-B);

26 4-Chloro-2,5-dimethoxyphenethylamine (trade or
27 other name: 2C-C);

1 2,5-Dimethoxy-4-methylphenethylamine (trade or
2 other name: 2C-D);

3 4-Ethyl-2,5-dimethoxyphenethylamine (trade or
4 other name: 2C-E);

5 4-Iodo-2,5-dimethoxyphenethylamine (trade or
6 other name: 2C-I);

7 2,5-Dimethoxy-4-nitrophenethylamine (trade or
8 other name: 2C-N);

9 2,5-Dimethoxy-4-(n)-propylphenethylamine (trade
10 or other name: 2C-P);

11 4-Ethylthio-2,5-dimethoxyphenethylamine (trade
12 or other name: 2C-T-2);

13 4-Isopropylthio-2,5-dimethoxyphenethylamine
14 (trade or other name: 2C-T-4); and

15 2,5-Dimethoxy-4-(n)-propylthiophenethylamine
16 (trade or other name: 2C-T-7); and

17 (7) 2,5-Dimethoxyamphetamine and any compound
18 structurally derived from 2,5-Dimethoxyamphetamine by substitution
19 at the 4-position of the phenyl ring to any extent (including alkyl,
20 alkoxy, alkylendioxy, haloalkyl, or halide substituents),
21 including, by example, compounds such as:

22 4-Ethylthio-2,5-dimethoxyamphetamine (trade or
23 other name: Aleph-2);

24 4-Isopropylthio-2,5-dimethoxyamphetamine (trade
25 or other name: Aleph-4);

26 4-Bromo-2,5-dimethoxyamphetamine (trade or other
27 name: DOB);

- 1 4-Chloro-2,5-dimethoxyamphetamine (trade or
2 other name: DOC);
3 2,5-Dimethoxy-4-ethylamphetamine (trade or other
4 name: DOET);
5 4-Iodo-2,5-dimethoxyamphetamine (trade or other
6 name: DOI);
7 2,5-Dimethoxy-4-methylamphetamine (trade or
8 other name: DOM);
9 2,5-Dimethoxy-4-nitroamphetamine (trade or other
10 name: DON);
11 4-Isopropyl-2,5-dimethoxyamphetamine (trade or
12 other name: DOIP); and
13 2,5-Dimethoxy-4-(n)-propylamphetamine (trade or
14 other name: DOPR).

15 SECTION 3. Subchapter D, Chapter 481, Health and Safety
16 Code, is amended by adding Section 481.1032 to read as follows:

17 Sec. 481.1032. PENALTY GROUP 2-B. (a) Penalty Group 2-B
18 consists of any quantity of the following substances, their salts,
19 isomers, and salts of isomers, unless specifically excepted, if the
20 existence of these salts, isomers, and salts of isomers is possible
21 within the specific chemical designation:

22 Tetrahydrocannabinols, other than marihuana, and
23 synthetic equivalents of the substances contained in the plant, or
24 in the resinous extractives of Cannabis, or synthetic substances,
25 derivatives, and their isomers with similar chemical structure and
26 pharmacological activity such as:

27 delta-1 cis or trans tetrahydrocannabinol, and

1 their optical isomers;
2 delta-6 cis or trans tetrahydrocannabinol, and
3 their optical isomers;
4 delta-3, 4 cis or trans tetrahydrocannabinol, and
5 its optical isomers; or
6 compounds of these structures, regardless of
7 numerical designation of atomic positions, since nomenclature of
8 these substances is not internationally standardized.

9 (b) For the purposes of this section, the term "isomer"
10 includes an optical, position, or geometric isomer.

11 SECTION 4. Section 481.106, Health and Safety Code, is
12 amended to read as follows:

13 Sec. 481.106. CLASSIFICATION OF CONTROLLED SUBSTANCE
14 ANALOGUE. For the purposes of the prosecution of an offense under
15 this subchapter involving the manufacture, delivery, or possession
16 of a controlled substance, Penalty Groups 1, 1-A, 2, [~~and~~] 2-A, and
17 2-B include a controlled substance analogue that:

18 (1) has a chemical structure substantially similar to
19 the chemical structure of a controlled substance listed in the
20 applicable penalty group; or

21 (2) is specifically designed to produce an effect
22 substantially similar to, or greater than, a controlled substance
23 listed in the applicable penalty group.

24 SECTION 5. The heading to Section 481.113, Health and
25 Safety Code, is amended to read as follows:

26 Sec. 481.113. OFFENSE: MANUFACTURE OR DELIVERY OF SUBSTANCE
27 IN PENALTY GROUP 2, [~~OR~~] 2-A, OR 2-B.

1 SECTION 6. Section 481.113(a), Health and Safety Code, is
2 amended to read as follows:

3 (a) Except as authorized by this chapter, a person commits
4 an offense if the person knowingly manufactures, delivers, or
5 possesses with intent to deliver a controlled substance listed in
6 Penalty Group 2, ~~[or]~~ 2-A, or 2-B.

7 SECTION 7. The heading to Section 481.1161, Health and
8 Safety Code, is amended to read as follows:

9 Sec. 481.1161. OFFENSE: POSSESSION OF SUBSTANCE IN PENALTY
10 GROUP 2-A OR 2-B.

11 SECTION 8. Section 481.1161(a), Health and Safety Code, is
12 amended to read as follows:

13 (a) Except as authorized by this chapter, a person commits
14 an offense if the person knowingly possesses a controlled substance
15 listed in Penalty Group 2-A or 2-B, unless the person obtained the
16 substance directly from or under a valid prescription or order of a
17 practitioner acting in the course of professional practice.

18 SECTION 9. Section 481.122(a), Health and Safety Code, is
19 amended to read as follows:

20 (a) A person commits an offense if the person knowingly
21 delivers a controlled substance listed in Penalty Group 1, 1-A, 2,
22 2-B, or 3 or knowingly delivers marihuana and the person delivers
23 the controlled substance or marihuana to a person:

- 24 (1) who is a child;
- 25 (2) who is enrolled in a public or private primary or
26 secondary school; or

27 (3) who the actor knows or believes intends to deliver

1 the controlled substance or marihuana to a person described by
2 Subdivision (1) or (2).

3 SECTION 10. Sections 551.003(11) and (12), Occupations
4 Code, are amended to read as follows:

5 (11) "Controlled substance" means a substance,
6 including a drug:

7 (A) listed in Schedule I, II, III, IV, or V, as
8 established by the commissioner of public health under Chapter 481,
9 Health and Safety Code, or in Penalty Group 1, 1-A, 2, 2-B, 3, or 4,
10 Chapter 481; or

11 (B) included in Schedule I, II, III, IV, or V of
12 the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21
13 U.S.C. Section 801 et seq.).

14 (12) "Dangerous drug" means a drug or device that:

15 (A) is not included in Penalty Group 1, 2, 2-B, 3,
16 or 4, Chapter 481, Health and Safety Code, and is unsafe for
17 self-medication; or

18 (B) bears or is required to bear the legend:

19 (i) "Caution: federal law prohibits
20 dispensing without prescription" or "Rx only" or another legend
21 that complies with federal law; or

22 (ii) "Caution: federal law restricts this
23 drug to use by or on the order of a licensed veterinarian."

24 SECTION 11. The change in law made by this Act applies only
25 to an offense committed on or after the effective date of this Act.
26 An offense committed before the effective date of this Act is
27 governed by the law in effect when the offense was committed, and

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

4 SECTION 12. This Act takes effect September 1, 2021.