

By: Goldman, Thimesch, Harless, Cook, Lujan,
et al.

H.B. No. 6

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the designation of poisoning with a controlled
3 substance included in Penalty Group 1-B for purposes of the death
4 certificate and to the criminal penalties for certain controlled
5 substance offenses; creating criminal offenses; increasing a
6 criminal penalty.

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

8 SECTION 1. Section 193.005, Health and Safety Code, is
9 amended by adding Subsections (e-1) and (e-2) to read as follows:

10 (e-1) For purposes of Subsection (e-2), "poisoning" occurs
11 when:

12 (1) a toxicology examination reveals one or more
13 controlled substances included in Penalty Group 1-B present in the
14 body of the decedent in an amount or concentration that is
15 considered to be lethal by generally accepted scientific standards;
16 and

17 (2) if an autopsy is performed, the results of the
18 autopsy performed on the decedent are consistent with one or more
19 controlled substances included in Penalty Group 1-B as the cause of
20 death.

21 (e-2) In the event of poisoning as described by Subsection
22 (e-1), the medical certification on the death certificate must:

23 (1) list "(name of the Penalty Group 1-B substance or
24 substances) poisoning" as the cause of death; and

1 (2) except as otherwise specifically established by
2 the medical examiner, list "homicide" as the manner of death.

3 SECTION 2. Section 481.102, Health and Safety Code, is
4 amended to read as follows:

5 Sec. 481.102. PENALTY GROUP 1. Penalty Group 1 consists
6 of:

7 (1) the following opiates, including their isomers,
8 esters, ethers, salts, and salts of isomers, esters, and ethers,
9 unless specifically excepted, if the existence of these isomers,
10 esters, ethers, and salts is possible within the specific chemical
11 designation:

12 ~~[Alfentanil,]~~

13 Allylprodine;

14 Alphacetylmethadol;

15 Benzethidine;

16 Betaprodine;

17 Clonitazene;

18 Diampromide;

19 Diethylthiambutene;

20 Difenoxin not listed in Penalty Group 3 or 4;

21 Dimenoxadol;

22 Dimethylthiambutene;

23 Dioxaphetyl butyrate;

24 Dipipanone;

25 Ethylmethylthiambutene;

26 Etonitazene;

27 Etoxeridine;

- 1 Furethidine;
- 2 Hydroxypethidine;
- 3 Ketobemidone;
- 4 Levophenacymorphan;
- 5 Meprodine;
- 6 Methadol;
- 7 Moramide;
- 8 Morpheridine;
- 9 Noracymethadol;
- 10 Norlevorphanol;
- 11 Normethadone;
- 12 Norpipanone;
- 13 Phenadoxone;
- 14 Phenampromide;
- 15 Phenomorphan;
- 16 Phenoperidine;
- 17 Piritramide;
- 18 Proheptazine;
- 19 Properidine;
- 20 Propiram;
- 21 [~~Sufentanil~~];
- 22 Tilidine; and
- 23 Trimeperidine;

24 (2) the following opium derivatives, their salts,
25 isomers, and salts of isomers, unless specifically excepted, if the
26 existence of these salts, isomers, and salts of isomers is possible
27 within the specific chemical designation:

- 1 Acetorphine;
- 2 Acetyldihydrocodeine;
- 3 Benzylmorphine;
- 4 Codeine methylbromide;
- 5 Codeine-N-Oxide;
- 6 Cyprenorphine;
- 7 Desomorphine;
- 8 Dihydromorphine;
- 9 Drotebanol;
- 10 Etorphine, except hydrochloride salt;
- 11 Heroin;
- 12 Hydromorphenol;
- 13 Methyldesorphine;
- 14 Methyldihydromorphine;
- 15 Monoacetylmorphine;
- 16 Morphine methylbromide;
- 17 Morphine methylsulfonate;
- 18 Morphine-N-Oxide;
- 19 Myrophine;
- 20 Nicocodeine;
- 21 Nicomorphine;
- 22 Normorphine;
- 23 Pholcodine; and
- 24 Thebacon;

25 (3) the following substances, however produced,
26 except those narcotic drugs listed in another group:

- 27 (A) Opium and opiate not listed in Penalty Group

1 3 or 4, and a salt, compound, derivative, or preparation of opium or
2 opiate, other than thebaine derived butorphanol, nalmeffene and its
3 salts, naloxone and its salts, and naltrexone and its salts, but
4 including:

- 5 Codeine not listed in Penalty Group 3 or 4;
- 6 Dihydroetorphine;
- 7 Ethylmorphine not listed in Penalty Group 3
8 or 4;
- 9 Granulated opium;
- 10 Hydrocodone not listed in Penalty Group 3;
- 11 Hydromorphone;
- 12 Metopon;
- 13 Morphine not listed in Penalty Group 3;
- 14 Opium extracts;
- 15 Opium fluid extracts;
- 16 Oripavine;
- 17 Oxycodone;
- 18 Oxymorphone;
- 19 Powdered opium;
- 20 Raw opium;
- 21 Thebaine; and
- 22 Tincture of opium;

23 (B) a salt, compound, isomer, derivative, or
24 preparation of a substance that is chemically equivalent or
25 identical to a substance described by Paragraph (A), other than the
26 isoquinoline alkaloids of opium;

27 (C) Opium poppy and poppy straw;

- 1 (D) Cocaine, including:
- 2 (i) its salts, its optical, position, and
3 geometric isomers, and the salts of those isomers;
- 4 (ii) coca leaves and a salt, compound,
5 derivative, or preparation of coca leaves; and
- 6 (iii) a salt, compound, derivative, or
7 preparation of a salt, compound, or derivative that is chemically
8 equivalent or identical to a substance described by Subparagraph
9 (i) or (ii), other than decocainized coca leaves or extractions of
10 coca leaves that do not contain cocaine or ecgonine; and
- 11 (E) concentrate of poppy straw, meaning the crude
12 extract of poppy straw in liquid, solid, or powder form that
13 contains the phenanthrine alkaloids of the opium poppy;
- 14 (4) the following opiates, including their isomers,
15 esters, ethers, salts, and salts of isomers, if the existence of
16 these isomers, esters, ethers, and salts is possible within the
17 specific chemical designation:
- 18 ~~[Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-~~
19 ~~phenethyl)-4-piperidinyl]-N-phenylacetamide),~~
- 20 ~~[Alpha-methylthiofentanyl (N-[1-methyl-2-(2-~~
21 ~~thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide),]~~
- 22 Alphaprodine;
- 23 Anileridine;
- 24 ~~[Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-~~
25 ~~phenethyl)-4-piperidinyl]-N-phenylpropanamide),~~
- 26 ~~[Beta-hydroxy-3-methylfentanyl,~~
- 27 Bezitramide;

1 ~~[Carfentanil;~~
 2 Dihydrocodeine not listed in Penalty Group 3 or 4;
 3 Diphenoxylate not listed in Penalty Group 3 or 4;
 4 Isomethadone;
 5 Levomethorphan;
 6 Levorphanol;
 7 Metazocine;
 8 Methadone;
 9 Methadone-Intermediate, 4-cyano-2-dimethylamino-
 10 4, 4-diphenyl butane;
 11 ~~[3-methylfentanyl(N-[3-methyl-1-(2-phenylethyl)-~~
 12 ~~4-piperidyl]-N-phenylpropanamide),~~
 13 ~~[3-methylthiofentanyl(N-[3-methyl-1-(2-thienyl)~~
 14 ~~ethyl-4-piperidinyl]-N-phenylpropanamide),]~~
 15 Moramide-Intermediate, 2-methyl-3-morpholino-1,
 16 1-diphenyl-propane-carboxylic acid;
 17 ~~[Para-fluorofentanyl(N-(4-fluorophenyl)-N-1-(2-~~
 18 ~~phenylethyl)-4-piperidinylpropanamide),]~~
 19 PEPAP (1-(2-phenethyl)-4-phenyl-4-
 20 acetoxypiperidine);
 21 Pethidine (Meperidine);
 22 Pethidine-Intermediate-A, 4-cyano-1-methyl-4-
 23 phenylpiperidine;
 24 Pethidine-Intermediate-B, ethyl-4-
 25 phenylpiperidine-4 carboxylate;
 26 Pethidine-Intermediate-C, 1-methyl-4-
 27 phenylpiperidine-4-carboxylic acid;

- 1 Phenazocine;
2 Piminodine;
3 Racemethorphan; and
4 Racemorphan;
5 ~~[Remifentanil; and~~
6 ~~[Thiofentanyl(N-phenyl-N-[1-(2-thienyl)ethyl-4-~~
7 ~~piperidinyl]-propanamide),]~~
8 (5) Flunitrazepam (trade or other name: Rohypnol);
9 (6) Methamphetamine, including its salts, optical
10 isomers, and salts of optical isomers;
11 (7) Phenylacetone and methylamine, if possessed
12 together with intent to manufacture methamphetamine;
13 (8) Phencyclidine, including its salts;
14 (9) Gamma hydroxybutyric acid (some trade or other
15 names: gamma hydroxybutyrate, GHB), including its salts;
16 (10) Ketamine;
17 (11) Phenazepam;
18 (12) U-47700;
19 (13) AH-7921;
20 (14) ADB-FUBINACA;
21 (15) AMB-FUBINACA; and
22 (16) MDMB-CHMICA.

23 SECTION 3. Section [481.1022](#), Health and Safety Code, is
24 amended to read as follows:

25 Sec. 481.1022. PENALTY GROUP 1-B. Penalty Group 1-B
26 consists of the following opiates, including their isomers, esters,
27 ethers, salts, and salts of isomers, esters, and ethers, if the

1 existence of these isomers, esters, ethers, and salts is possible
2 within the specific chemical designation:

3 Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-
4 phenethyl)-4-piperidinyl]-N-phenylacetamide);

5 Alfentanil;

6 Alpha-methylthiofentanyl (N-[1-methyl-2-(2-
7 thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

8 Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-
9 phenethyl)-4-piperidinyl]-N-phenylpropanamide);

10 Beta-hydroxy-3-methylfentanyl;

11 Carfentanil;

12 Fentanyl [~~fentanyl~~], alpha-methylfentanyl, and
13 any other derivative of fentanyl;

14 3-methylfentanyl(N-[3-methyl-1-(2-phenylethyl)-
15 4-piperidyl]-N-phenylpropanamide);

16 3-methylthiofentanyl(N-[3-methyl-1-(2-thienyl)
17 ethyl-4-piperidinyl]-N-phenylpropanamide);

18 Para-fluorofentanyl(N-(4-fluorophenyl)-N-1-(2-
19 phenylethyl)-4-piperidinylpropanamide);

20 Remifentanil;

21 Sufentanil; and

22 Thiofentanyl(N-phenyl-N-[1-(2-thienyl)ethyl-4-
23 piperidinyl]-propanamide).

24 SECTION 4. Sections 481.112(e) and (f), Health and Safety
25 Code, are amended to read as follows:

26 (e) An offense under Subsection (a) is a felony of the first
27 degree punishable by imprisonment in the Texas Department of

1 Criminal Justice for life or for a term of not more than 99 years or
2 less than 10 years, and a fine not to exceed \$100,000, if the amount
3 of the controlled substance to which the offense applies is, by
4 aggregate weight, including adulterants or dilutants, 200 grams or
5 more but less than 400 grams.

6 (f) An offense under Subsection (a) is a felony of the first
7 degree punishable by imprisonment in the Texas Department of
8 Criminal Justice for life or for a term of not more than 99 years or
9 less than 15 years, and a fine not to exceed \$250,000, if the amount
10 of the controlled substance to which the offense applies is, by
11 aggregate weight, including adulterants or dilutants, 400 grams or
12 more.

13 SECTION 5. Section 481.1121(b), Health and Safety Code, is
14 amended to read as follows:

15 (b) An offense under this section is:

16 (1) a state jail felony if the number of abuse units of
17 the controlled substance is fewer than 20;

18 (2) a felony of the second degree if the number of
19 abuse units of the controlled substance is 20 or more but fewer than
20 80;

21 (3) a felony of the first degree if the number of abuse
22 units of the controlled substance is 80 or more but fewer than
23 4,000; and

24 (4) a felony of the first degree punishable by
25 imprisonment in the Texas Department of Criminal Justice for life
26 or for a term of not more than 99 years or less than 15 years and a
27 fine not to exceed \$250,000, if the number of abuse units of the

1 controlled substance is 4,000 or more.

2 SECTION 6. Sections 481.1123(b), (d), (e), and (f), Health
3 and Safety Code, are amended to read as follows:

4 (b) An offense under Subsection (a) is a [~~state-jail~~] felony
5 of the third degree if the amount of the controlled substance to
6 which the offense applies is, by aggregate weight, including
7 adulterants or dilutants, less than one gram.

8 (d) An offense under Subsection (a) is a felony of the first
9 degree punishable by imprisonment in the Texas Department of
10 Criminal Justice for life or for a term of not more than 99 years or
11 less than 10 years, and a fine not to exceed \$20,000, if the amount
12 of the controlled substance to which the offense applies is, by
13 aggregate weight, including adulterants or dilutants, four grams or
14 more but less than 200 grams.

15 (e) An offense under Subsection (a) is a felony of the first
16 degree punishable by imprisonment in the Texas Department of
17 Criminal Justice for life or for a term of not more than 99 years or
18 less than 15 years, and a fine not to exceed \$200,000, if the amount
19 of the controlled substance to which the offense applies is, by
20 aggregate weight, including adulterants or dilutants, 200 grams or
21 more but less than 400 grams.

22 (f) An offense under Subsection (a) is a felony of the first
23 degree punishable by imprisonment in the Texas Department of
24 Criminal Justice for life or for a term of not more than 99 years or
25 less than 20 years, and a fine not to exceed \$500,000, if the amount
26 of the controlled substance to which the offense applies is, by
27 aggregate weight, including adulterants or dilutants, 400 grams or

1 more.

2 SECTION 7. Section 481.113(e), Health and Safety Code, is
3 amended to read as follows:

4 (e) An offense under Subsection (a) is a felony of the first
5 degree punishable by imprisonment in the Texas Department of
6 Criminal Justice for life or for a term of not more than 99 years or
7 less than 10 years, and a fine not to exceed \$100,000, if the amount
8 of the controlled substance to which the offense applies is, by
9 aggregate weight, including adulterants or dilutants, 400 grams or
10 more.

11 SECTION 8. Section 481.114(e), Health and Safety Code, is
12 amended to read as follows:

13 (e) An offense under Subsection (a) is a felony of the first
14 degree punishable by imprisonment in the Texas Department of
15 Criminal Justice for life or for a term of not more than 99 years or
16 less than 10 years, and a fine not to exceed \$100,000, if the amount
17 of the controlled substance to which the offense applies is, by
18 aggregate weight, including any adulterants or dilutants, 400 grams
19 or more.

20 SECTION 9. Section 481.115(f), Health and Safety Code, is
21 amended to read as follows:

22 (f) An offense under Subsection (a) is a felony of the first
23 degree punishable by imprisonment in the Texas Department of
24 Criminal Justice for life or for a term of not more than 99 years or
25 less than 10 years, and a fine not to exceed \$100,000, if the amount
26 of the controlled substance possessed is, by aggregate weight,
27 including adulterants or dilutants, 400 grams or more.

1 SECTION 10. Section 481.1151(b), Health and Safety Code, is
2 amended to read as follows:

3 (b) An offense under this section is:

4 (1) a state jail felony if the number of abuse units of
5 the controlled substance is fewer than 20;

6 (2) a felony of the third degree if the number of abuse
7 units of the controlled substance is 20 or more but fewer than 80;

8 (3) a felony of the second degree if the number of
9 abuse units of the controlled substance is 80 or more but fewer than
10 4,000;

11 (4) a felony of the first degree if the number of abuse
12 units of the controlled substance is 4,000 or more but fewer than
13 8,000; and

14 (5) a felony of the first degree punishable by
15 imprisonment in the Texas Department of Criminal Justice for life
16 or for a term of not more than 99 years or less than 15 years and a
17 fine not to exceed \$250,000, if the number of abuse units of the
18 controlled substance is 8,000 or more.

19 SECTION 11. Section 481.116(e), Health and Safety Code, is
20 amended to read as follows:

21 (e) An offense under Subsection (a) is a felony of the first
22 degree punishable by imprisonment in the Texas Department of
23 Criminal Justice for life or for a term of not more than 99 years or
24 less than five years, and a fine not to exceed \$50,000, if the
25 amount of the controlled substance possessed is, by aggregate
26 weight, including adulterants or dilutants, 400 grams or more.

27 SECTION 12. Section 481.1161(b), Health and Safety Code, is

1 amended to read as follows:

2 (b) An offense under this section is:

3 (1) a Class B misdemeanor if the amount of the
4 controlled substance possessed is, by aggregate weight, including
5 adulterants or dilutants, two ounces or less;

6 (2) a Class A misdemeanor if the amount of the
7 controlled substance possessed is, by aggregate weight, including
8 adulterants or dilutants, four ounces or less but more than two
9 ounces;

10 (3) a state jail felony if the amount of the controlled
11 substance possessed is, by aggregate weight, including adulterants
12 or dilutants, five pounds or less but more than four ounces;

13 (4) a felony of the third degree if the amount of the
14 controlled substance possessed is, by aggregate weight, including
15 adulterants or dilutants, 50 pounds or less but more than 5 pounds;

16 (5) a felony of the second degree if the amount of the
17 controlled substance possessed is, by aggregate weight, including
18 adulterants or dilutants, 2,000 pounds or less but more than 50
19 pounds; and

20 (6) a felony of the first degree punishable by
21 imprisonment in the Texas Department of Criminal Justice for life
22 or for a term of not more than 99 years or less than 5 years, and a
23 fine not to exceed \$50,000, if the amount of the controlled
24 substance possessed is, by aggregate weight, including adulterants
25 or dilutants, more than 2,000 pounds.

26 SECTION 13. Section [481.117\(e\)](#), Health and Safety Code, is
27 amended to read as follows:

1 (e) An offense under Subsection (a) is a felony of the first
2 degree punishable by imprisonment in the Texas Department of
3 Criminal Justice for life or for a term of not more than 99 years or
4 less than five years, and a fine not to exceed \$50,000, if the
5 amount of the controlled substance possessed is, by aggregate
6 weight, including adulterants or dilutants, 400 grams or more.

7 SECTION 14. Section 481.118(e), Health and Safety Code, is
8 amended to read as follows:

9 (e) An offense under Subsection (a) is a felony of the first
10 degree punishable by imprisonment in the Texas Department of
11 Criminal Justice for life or for a term of not more than 99 years or
12 less than five years, and a fine not to exceed \$50,000, if the
13 amount of the controlled substance possessed is, by aggregate
14 weight, including adulterants or dilutants, 400 grams or more.

15 SECTION 15. Section 481.120(b), Health and Safety Code, is
16 amended to read as follows:

17 (b) An offense under Subsection (a) is:

18 (1) a Class B misdemeanor if the amount of marihuana
19 delivered is one-fourth ounce or less and the person committing the
20 offense does not receive remuneration for the marihuana;

21 (2) a Class A misdemeanor if the amount of marihuana
22 delivered is one-fourth ounce or less and the person committing the
23 offense receives remuneration for the marihuana;

24 (3) a state jail felony if the amount of marihuana
25 delivered is five pounds or less but more than one-fourth ounce;

26 (4) a felony of the second degree if the amount of
27 marihuana delivered is 50 pounds or less but more than five pounds;

1 (5) a felony of the first degree if the amount of
2 marihuana delivered is 2,000 pounds or less but more than 50 pounds;
3 and

4 (6) a felony of the first degree punishable by
5 imprisonment in the Texas Department of Criminal Justice for life
6 or for a term of not more than 99 years or less than 10 years, and a
7 fine not to exceed \$100,000, if the amount of marihuana delivered is
8 more than 2,000 pounds.

9 SECTION 16. Section 481.121(b), Health and Safety Code, is
10 amended to read as follows:

11 (b) An offense under Subsection (a) is:

12 (1) a Class B misdemeanor if the amount of marihuana
13 possessed is two ounces or less;

14 (2) a Class A misdemeanor if the amount of marihuana
15 possessed is four ounces or less but more than two ounces;

16 (3) a state jail felony if the amount of marihuana
17 possessed is five pounds or less but more than four ounces;

18 (4) a felony of the third degree if the amount of
19 marihuana possessed is 50 pounds or less but more than 5 pounds;

20 (5) a felony of the second degree if the amount of
21 marihuana possessed is 2,000 pounds or less but more than 50 pounds;
22 and

23 (6) a felony of the first degree punishable by
24 imprisonment in the Texas Department of Criminal Justice for life
25 or for a term of not more than 99 years or less than 5 years, and a
26 fine not to exceed \$50,000, if the amount of marihuana possessed is
27 more than 2,000 pounds.

1 SECTION 17. Section 481.126(a), Health and Safety Code, is
2 amended to read as follows:

3 (a) A person commits an offense if the person:

4 (1) barter property or expends funds the person knows
5 are derived from the commission of a first degree felony [~~an~~]
6 offense under this chapter punishable by imprisonment in the Texas
7 Department of Criminal Justice for life;

8 (2) barter property or expends funds the person knows
9 are derived from the commission of an offense under Section
10 481.121(a) that is punishable under Section 481.121(b)(5);

11 (3) barter property or finances or invests funds the
12 person knows or believes are intended to further the commission of
13 an offense for which the punishment is described by Subdivision
14 (1); or

15 (4) barter property or finances or invests funds the
16 person knows or believes are intended to further the commission of
17 an offense under Section 481.121(a) that is punishable under
18 Section 481.121(b)(5).

19 SECTION 18. Section 481.134(c), Health and Safety Code, as
20 amended by Chapters 584 (S.B. 768) and 807 (H.B. 1540), Acts of the
21 87th Legislature, Regular Session, 2021, is reenacted and amended
22 to read as follows:

23 (c) The minimum term of confinement or imprisonment for an
24 offense otherwise punishable under Section 481.112(c), (d), (e), or
25 (f), 481.1121(b)(2), (3), or (4), 481.1123(b), (c) [~~481.1123(c)~~],
26 (d), (e), or (f), 481.113(c), (d), or (e), 481.114(c), (d), or (e),
27 481.115(c)-(f), 481.1151(b)(2), (3), (4), or (5), 481.116(c), (d),

1 or (e), 481.1161(b)(4), (5), or (6), 481.117(c), (d), or (e),
2 481.118(c), (d), or (e), 481.120(b)(4), (5), or (6), or
3 481.121(b)(4), (5), or (6) is increased by five years and the
4 maximum fine for the offense is doubled if it is shown on the trial
5 of the offense that the offense was committed:

6 (1) in, on, or within 1,000 feet of the premises of a
7 school, the premises of a public or private youth center, or a
8 playground;

9 (2) on a school bus; or

10 (3) by any unauthorized person 18 years of age or
11 older, in, on, or within 1,000 feet of premises owned, rented, or
12 leased by a general residential operation operating as a
13 residential treatment center.

14 SECTION 19. Section 481.141, Health and Safety Code, is
15 amended by adding Subsection (d) to read as follows:

16 (d) Punishment may not be increased under this section if
17 the defendant is also prosecuted under Section 19.02(b)(4),
18 19.04(a-1), or 19.05(a-1), Penal Code, for conduct occurring during
19 the same criminal episode.

20 SECTION 20. Section 19.02, Penal Code, is amended by
21 amending Subsection (b) and adding Subsection (e) to read as
22 follows:

23 (b) A person commits an offense if the person [~~he~~]:

24 (1) intentionally or knowingly causes the death of an
25 individual;

26 (2) intends to cause serious bodily injury and commits
27 an act clearly dangerous to human life that causes the death of an

1 individual; ~~[or]~~

2 (3) commits or attempts to commit a felony, other than
3 manslaughter, and in the course of and in furtherance of the
4 commission or attempt, or in immediate flight from the commission
5 or attempt, the person ~~[he]~~ commits or attempts to commit an act
6 clearly dangerous to human life that causes the death of an
7 individual; or

8 (4) knowingly manufactures or delivers a controlled
9 substance included in Penalty Group 1-B under Section 481.1022,
10 Health and Safety Code, in violation of Section 481.1123, Health
11 and Safety Code, and an individual dies as a result of injecting,
12 ingesting, inhaling, or introducing into the individual's body any
13 amount of the controlled substance manufactured or delivered by the
14 actor, regardless of whether the controlled substance was used by
15 itself or with another substance, including a drug, adulterant, or
16 dilutant.

17 (e) It is a defense to prosecution under Subsection (b)(4)
18 that the actor's conduct in manufacturing or delivering the
19 controlled substance was authorized under Chapter 481, Health and
20 Safety Code, or other state or federal law.

21 SECTION 21. Section 19.04, Penal Code, is amended by adding
22 Subsections (a-1) and (c) to read as follows:

23 (a-1) A person commits an offense if the person recklessly
24 manufactures or delivers a controlled substance included in Penalty
25 Group 1-B under Section 481.1022, Health and Safety Code, in
26 violation of Section 481.1123, Health and Safety Code, and an
27 individual dies as a result of injecting, ingesting, inhaling, or

1 introducing into the individual's body any amount of the controlled
2 substance manufactured or delivered by the actor, regardless of
3 whether the controlled substance was used by itself or with another
4 substance, including a drug, adulterant, or dilutant.

5 (c) It is a defense to prosecution under Subsection (a-1)
6 that the actor's conduct in manufacturing or delivering the
7 controlled substance was authorized under Chapter 481, Health and
8 Safety Code, or other state or federal law.

9 SECTION 22. Section 19.05, Penal Code, is amended by adding
10 Subsections (a-1) and (c) to read as follows:

11 (a-1) A person commits an offense if the person with
12 criminal negligence manufactures or delivers a controlled
13 substance included in Penalty Group 1-B under Section 481.1022,
14 Health and Safety Code, in violation of Section 481.1123, Health
15 and Safety Code, and an individual dies as a result of injecting,
16 ingesting, inhaling, or introducing into the individual's body any
17 amount of the controlled substance manufactured or delivered by the
18 actor, regardless of whether the controlled substance was used by
19 itself or with another substance, including a drug, adulterant, or
20 dilutant.

21 (c) It is a defense to prosecution under Subsection (a-1)
22 that the actor's conduct in manufacturing or delivering the
23 controlled substance was authorized under Chapter 481, Health and
24 Safety Code, or other state or federal law.

25 SECTION 23. Section 71.02(a), Penal Code, is amended to
26 read as follows:

27 (a) A person commits an offense if, with the intent to

1 establish, maintain, or participate in a combination or in the
2 profits of a combination or as a member of a criminal street gang,
3 the person commits or conspires to commit one or more of the
4 following:

5 (1) murder, capital murder, arson, aggravated
6 robbery, robbery, burglary, theft, aggravated kidnapping,
7 kidnapping, aggravated assault, aggravated sexual assault, sexual
8 assault, continuous sexual abuse of young child or disabled
9 individual, solicitation of a minor, forgery, deadly conduct,
10 assault punishable as a Class A misdemeanor, burglary of a motor
11 vehicle, or unauthorized use of a motor vehicle;

12 (2) any gambling offense punishable as a Class A
13 misdemeanor;

14 (3) promotion of prostitution, aggravated promotion
15 of prostitution, or compelling prostitution;

16 (4) unlawful manufacture, transportation, repair, or
17 sale of firearms or prohibited weapons;

18 (5) unlawful manufacture, delivery, dispensation, or
19 distribution of a controlled substance or dangerous drug, or
20 unlawful possession of a controlled substance or dangerous drug
21 through forgery, fraud, misrepresentation, or deception;

22 (5-a) causing the unlawful delivery, dispensation, or
23 distribution of a controlled substance or dangerous drug in
24 violation of Subtitle B, Title 3, Occupations Code;

25 (5-b) unlawful possession with intent to deliver a
26 controlled substance listed in Penalty Group 1-B under Section
27 481.1022, Health and Safety Code;

1 (6) any unlawful wholesale promotion or possession of
2 any obscene material or obscene device with the intent to wholesale
3 promote the same;

4 (7) any offense under Subchapter B, Chapter 43,
5 depicting or involving conduct by or directed toward a child
6 younger than 18 years of age;

7 (8) any felony offense under Chapter 32;

8 (9) any offense under Chapter 36;

9 (10) any offense under Chapter 34, 35, or 35A;

10 (11) any offense under Section 37.11(a);

11 (12) any offense under Chapter 20A;

12 (13) any offense under Section 37.10;

13 (14) any offense under Section 38.06, 38.07, 38.09, or
14 38.11;

15 (15) any offense under Section 42.10;

16 (16) any offense under Section 46.06(a)(1) or 46.14;

17 (17) any offense under Section 20.05 or 20.06;

18 (18) any offense under Section 16.02; or

19 (19) any offense classified as a felony under the Tax
20 Code.

21 SECTION 24. The change in law made by this Act to Section
22 193.005, Health and Safety Code, applies only to a death that occurs
23 on or after the effective date of this Act, or a death that occurs
24 before that date but is discovered on or after the effective date of
25 this Act.

26 SECTION 25. The changes in law made by this Act to Chapter
27 481, Health and Safety Code, and Sections 19.02, 19.04, 19.05, and

1 71.02, Penal Code, apply only to an offense committed on or after
2 the effective date of this Act. An offense committed before the
3 effective date of this Act is governed by the law in effect on the
4 date the offense was committed, and the former law is continued in
5 effect for that purpose. For purposes of this section, an offense
6 was committed before the effective date of this Act if any element
7 of the offense occurred before that date.

8 SECTION 26. To the extent of any conflict, this Act prevails
9 over another Act of the 88th Legislature, Regular Session, 2023,
10 relating to nonsubstantive additions to and corrections in enacted
11 codes.

12 SECTION 27. This Act takes effect September 1, 2023.