

AN ACT

relating to the designation of fentanyl poisoning or fentanyl toxicity for purposes of the death certificate and to the criminal penalties for certain controlled substance offenses; increasing a criminal penalty.

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

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

(e-1) The medical certification on a death certificate must include either the term "Fentanyl Poisoning" or the term "Fentanyl Toxicity" if:

(1) a toxicology examination reveals a controlled substance listed in Penalty Group 1-B present in the body of the decedent in an amount or concentration that is considered to be lethal by generally accepted scientific standards; and

(2) the results of an autopsy performed on the decedent are consistent with an opioid overdose as the cause of death.

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

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

(1) the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers,

1 unless specifically excepted, if the existence of these isomers,  
2 esters, ethers, and salts is possible within the specific chemical  
3 designation:

- 4                    [~~Alfentanil,~~
- 5                    Allylprodine;
- 6                    Alphacetylmethadol;
- 7                    Benzethidine;
- 8                    Betaprodine;
- 9                    Clonitazene;
- 10                   Diampromide;
- 11                   Diethylthiambutene;
- 12                   Difenoquin not listed in Penalty Group 3 or 4;
- 13                   Dimenoxadol;
- 14                   Dimethylthiambutene;
- 15                   Dioxaphetyl butyrate;
- 16                   Dipipanone;
- 17                   Ethylmethylthiambutene;
- 18                   Etonitazene;
- 19                   Etoxadine;
- 20                   Furethidine;
- 21                   Hydroxypethidine;
- 22                   Ketobemidone;
- 23                   Levophenacetylmorphan;
- 24                   Meprodine;
- 25                   Methadol;
- 26                   Moramide;
- 27                   Morpheridine;

1 Noracymethadol;  
2 Norlevorphanol;  
3 Normethadone;  
4 Norpipanone;  
5 Phenadoxone;  
6 Phenampromide;  
7 Phenomorphan;  
8 Phenoperidine;  
9 Piritramide;  
10 Proheptazine;  
11 Properidine;  
12 Propiram;  
13 [~~Sufentanil~~]  
14 Tilidine; and  
15 Trimeperidine;

16 (2) the following opium derivatives, their salts,  
17 isomers, and salts of isomers, unless specifically excepted, if the  
18 existence of these salts, isomers, and salts of isomers is possible  
19 within the specific chemical designation:

20 Acetorphine;  
21 Acetyldihydrocodeine;  
22 Benzylmorphine;  
23 Codeine methylbromide;  
24 Codeine-N-Oxide;  
25 Cyprenorphine;  
26 Desomorphine;  
27 Dihydromorphine;

1                   Drotebanol;  
2                   Etorphine, except hydrochloride salt;  
3                   Heroin;  
4                   Hydromorphenol;  
5                   Methyldesorphine;  
6                   Methyldihydromorphine;  
7                   Monoacetylmorphine;  
8                   Morphine methylbromide;  
9                   Morphine methylsulfonate;  
10                  Morphine-N-Oxide;  
11                  Myrophine;  
12                  Nicocodeine;  
13                  Nicomorphine;  
14                  Normorphine;  
15                  Pholcodine; and  
16                  Thebacon;

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

19                         (A) Opium and opiate not listed in Penalty Group  
20 3 or 4, and a salt, compound, derivative, or preparation of opium or  
21 opiate, other than thebaine derived butorphanol, nalmeffene and its  
22 salts, naloxone and its salts, and naltrexone and its salts, but  
23 including:

24                                 Codeine not listed in Penalty Group 3 or 4;  
25                                 Dihydroetorphine;  
26                                 Ethylmorphine not listed in Penalty Group 3  
27 or 4;

- 1 Granulated opium;  
2 Hydrocodone not listed in Penalty Group 3;  
3 Hydromorphone;  
4 Metopon;  
5 Morphine not listed in Penalty Group 3;  
6 Opium extracts;  
7 Opium fluid extracts;  
8 Oripavine;  
9 Oxycodone;  
10 Oxymorphone;  
11 Powdered opium;  
12 Raw opium;  
13 Thebaine; and  
14 Tincture of opium;
- 15 (B) a salt, compound, isomer, derivative, or  
16 preparation of a substance that is chemically equivalent or  
17 identical to a substance described by Paragraph (A), other than the  
18 isoquinoline alkaloids of opium;
- 19 (C) Opium poppy and poppy straw;
- 20 (D) Cocaine, including:
- 21 (i) its salts, its optical, position, and  
22 geometric isomers, and the salts of those isomers;
- 23 (ii) coca leaves and a salt, compound,  
24 derivative, or preparation of coca leaves; and
- 25 (iii) a salt, compound, derivative, or  
26 preparation of a salt, compound, or derivative that is chemically  
27 equivalent or identical to a substance described by Subparagraph

1 (i) or (ii), other than decocainized coca leaves or extractions of  
2 coca leaves that do not contain cocaine or ecgonine; and

3 (E) concentrate of poppy straw, meaning the crude  
4 extract of poppy straw in liquid, solid, or powder form that  
5 contains the phenanthrine alkaloids of the opium poppy;

6 (4) the following opiates, including their isomers,  
7 esters, ethers, salts, and salts of isomers, if the existence of  
8 these isomers, esters, ethers, and salts is possible within the  
9 specific chemical designation:

10 ~~[Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-~~  
11 ~~phenethyl)-4-piperidinyl]-N-phenylacetamide),]~~

12 ~~[Alpha-methylthiofentanyl (N-[1-methyl-2-(2-~~  
13 ~~thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide),]~~

14 Alphaprodine;

15 Anileridine;

16 ~~[Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-~~  
17 ~~phenethyl)-4-piperidinyl]-N-phenylpropanamide),]~~

18 ~~[Beta-hydroxy-3-methylfentanyl,]~~

19 Bezitramide;

20 ~~[Carfentanil,]~~

21 Dihydrocodeine not listed in Penalty Group 3 or 4;

22 Diphenoxylate not listed in Penalty Group 3 or 4;

23 Isomethadone;

24 Levomethorphan;

25 Levorphanol;

26 Metazocine;

27 Methadone;

1 Methadone-Intermediate, 4-cyano-2-dimethylamino-  
2 4, 4-diphenyl butane;  
3 [~~3-methylfentanyl(N-[3-methyl-1-(2-phenylethyl)-~~  
4 ~~4-piperidyl]-N-phenylpropanamide),~~  
5 [~~3-methylthiofentanyl(N-[3-methyl-1-(2-thienyl)~~  
6 ~~ethyl-4-piperidinyl]-N-phenylpropanamide),~~]  
7 Moramide-Intermediate, 2-methyl-3-morpholino-1,  
8 1-diphenyl-propane-carboxylic acid;  
9 [~~Para-fluorofentanyl(N-(4-fluorophenyl)-N-1-(2-~~  
10 ~~phenylethyl)-4-piperidinylpropanamide),~~]  
11 PEPAP (1-(2-phenethyl)-4-phenyl-4-  
12 acetoxypiperidine);  
13 Pethidine (Meperidine);  
14 Pethidine-Intermediate-A, 4-cyano-1-methyl-4-  
15 phenylpiperidine;  
16 Pethidine-Intermediate-B, ethyl-4-  
17 phenylpiperidine-4 carboxylate;  
18 Pethidine-Intermediate-C, 1-methyl-4-  
19 phenylpiperidine-4-carboxylic acid;  
20 Phenazocine;  
21 Piminodine;  
22 Racemethorphan; and  
23 Racemorphan;  
24 [~~Remifentanyl, and~~  
25 [~~Thiofentanyl(N-phenyl-N-[1-(2-thienyl)ethyl-4-~~  
26 ~~piperidinyl]-propanamide),~~]  
27 (5) Flunitrazepam (trade or other name: Rohypnol);

- 1           (6) Methamphetamine, including its salts, optical  
2 isomers, and salts of optical isomers;
- 3           (7) Phenylacetone and methylamine, if possessed  
4 together with intent to manufacture methamphetamine;
- 5           (8) Phencyclidine, including its salts;
- 6           (9) Gamma hydroxybutyric acid (some trade or other  
7 names: gamma hydroxybutyrate, GHB), including its salts;
- 8           (10) Ketamine;
- 9           (11) Phenazepam;
- 10           (12) U-47700;
- 11           (13) AH-7921;
- 12           (14) ADB-FUBINACA;
- 13           (15) AMB-FUBINACA; and
- 14           (16) MDMB-CHMICA.

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

17           Sec. 481.1022. PENALTY GROUP 1-B. Penalty Group 1-B  
18 consists of the following opiates, including their isomers, esters,  
19 ethers, salts, and salts of isomers, esters, and ethers, if the  
20 existence of these isomers, esters, ethers, and salts is possible  
21 within the specific chemical designation:

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

24                           Alfentanil;

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

27                           Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-



1 phenethyl)-4-piperidinyl]-N-phenylpropanamide);  
2 Beta-hydroxy-3-methylfentanyl;  
3 Carfentanil;  
4 Fentanyl [~~fentanyl~~], alpha-methylfentanyl, and  
5 any other derivative of fentanyl;  
6 3-methylfentanyl(N-[3-methyl-1-(2-phenylethyl)-  
7 4-piperidyl]-N-phenylpropanamide);  
8 3-methylthiofentanyl(N-[3-methyl-1-(2-thienyl)  
9 ethyl-4-piperidinyl]-N-phenylpropanamide);  
10 Para-fluorofentanyl(N-(4-fluorophenyl)-N-1-(2-  
11 phenylethyl)-4-piperidinylpropanamide);  
12 Remifentanil;  
13 Sufentanil; and  
14 Thiofentanyl(N-phenyl-N-[1-(2-thienyl)ethyl-4-  
15 piperidinyl]-propanamide).

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

18 (e) An offense under Subsection (a) is a felony of the first  
19 degree punishable by imprisonment in the Texas Department of  
20 Criminal Justice for life or for a term of not more than 99 years or  
21 less than 10 years, and a fine not to exceed \$100,000, if the amount  
22 of the controlled substance to which the offense applies is, by  
23 aggregate weight, including adulterants or dilutants, 200 grams or  
24 more but less than 400 grams.

25 (f) An offense under Subsection (a) is a felony of the first  
26 degree punishable by imprisonment in the Texas Department of  
27 Criminal Justice for life or for a term of not more than 99 years or

1 less than 15 years, and a fine not to exceed \$250,000, if the amount  
2 of the controlled substance to which the offense applies is, by  
3 aggregate weight, including adulterants or dilutants, 400 grams or  
4 more.

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

7 (b) An offense under this section is:

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

10 (2) a felony of the second degree if the number of  
11 abuse units of the controlled substance is 20 or more but fewer than  
12 80;

13 (3) a felony of the first degree if the number of abuse  
14 units of the controlled substance is 80 or more but fewer than  
15 4,000; and

16 (4) a felony of the first degree punishable by  
17 imprisonment in the Texas Department of Criminal Justice for life  
18 or for a term of not more than 99 years or less than 15 years and a  
19 fine not to exceed \$250,000, if the number of abuse units of the  
20 controlled substance is 4,000 or more.

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

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

27 (d) An offense under Subsection (a) is a felony of the first

1 degree punishable by imprisonment in the Texas Department of  
2 Criminal Justice for life or for a term of not more than 99 years or  
3 less than 10 years, and a fine not to exceed \$20,000, if the amount  
4 of the controlled substance to which the offense applies is, by  
5 aggregate weight, including adulterants or dilutants, four grams or  
6 more but less than 200 grams.

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

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

21 SECTION 7. Section [481.113](#)(e), Health and Safety Code, is  
22 amended to read as follows:

23 (e) An offense under Subsection (a) is a felony of the first  
24 degree punishable by imprisonment in the Texas Department of  
25 Criminal Justice for life or for a term of not more than 99 years or  
26 less than 10 years, and a fine not to exceed \$100,000, if the amount  
27 of the controlled substance to which the offense applies is, by

1 aggregate weight, including adulterants or dilutants, 400 grams or  
2 more.

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

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

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

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

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

22 (b) An offense under this section is:

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

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

27 (3) a felony of the second degree if the number of

1 abuse units of the controlled substance is 80 or more but fewer than  
2 4,000;

3 (4) a felony of the first degree if the number of abuse  
4 units of the controlled substance is 4,000 or more but fewer than  
5 8,000; and

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

11 SECTION 11. Section 481.116(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 five years, and a fine not to exceed \$50,000, if the  
17 amount of the controlled substance possessed is, by aggregate  
18 weight, including adulterants or dilutants, 400 grams or more.

19 SECTION 12. Section 481.1161(b), Health and Safety Code, is  
20 amended to read as follows:

21 (b) An offense under this section is:

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

25 (2) a Class A misdemeanor if the amount of the  
26 controlled substance possessed is, by aggregate weight, including  
27 adulterants or dilutants, four ounces or less but more than two

1 ounces;

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

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

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

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

18 SECTION 13. Section 481.117(e), Health and Safety Code, is  
19 amended to read as follows:

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

26 SECTION 14. Section 481.118(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 15. Section 481.120(b), Health and Safety Code, is  
8 amended to read as follows:

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

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

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

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

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

20                 (5) a felony of the first degree if the amount of  
21 marihuana delivered 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 10 years, and a  
26 fine not to exceed \$100,000, if the amount of marihuana delivered is  
27 more than 2,000 pounds.

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

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

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

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

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

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

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

14 and

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

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

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

23 (1) barter property or expends funds the person knows  
24 are derived from the commission of a first degree felony ~~an~~  
25 offense under this chapter punishable by imprisonment in the Texas  
26 Department of Criminal Justice for life;

27 (2) barter property or expends funds the person knows



1 are derived from the commission of an offense under Section  
2 481.121(a) that is punishable under Section 481.121(b)(5);

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

7 (4) barter property or finances or invests funds the  
8 person knows or believes are intended to further the commission of  
9 an offense under Section 481.121(a) that is punishable under  
10 Section 481.121(b)(5).

11 SECTION 18. Section 481.134(c), Health and Safety Code, as  
12 amended by Chapters 584 (S.B. 768) and 807 (H.B. 1540), Acts of the  
13 87th Legislature, Regular Session, 2021, is reenacted and amended  
14 to read as follows:

15 (c) The minimum term of confinement or imprisonment for an  
16 offense otherwise punishable under Section 481.112(c), (d), (e), or  
17 (f), 481.1121(b)(2), (3), or (4), 481.1123(b), (c) [~~481.1123(e)~~],  
18 (d), (e), or (f), 481.113(c), (d), or (e), 481.114(c), (d), or (e),  
19 481.115(c)-(f), 481.1151(b)(2), (3), (4), or (5), 481.116(c), (d),  
20 or (e), 481.1161(b)(4), (5), or (6), 481.117(c), (d), or (e),  
21 481.118(c), (d), or (e), 481.120(b)(4), (5), or (6), or  
22 481.121(b)(4), (5), or (6) is increased by five years and the  
23 maximum fine for the offense is doubled if it is shown on the trial  
24 of the offense that the offense was committed:

25 (1) in, on, or within 1,000 feet of the premises of a  
26 school, the premises of a public or private youth center, or a  
27 playground;

1 (2) on a school bus; or

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

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

8 (d) Punishment may not be increased under this section if  
9 the defendant is also prosecuted under Section 19.02(b)(4), Penal  
10 Code, for conduct occurring during the same criminal episode.

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

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

15 (1) intentionally or knowingly causes the death of an  
16 individual;

17 (2) intends to cause serious bodily injury and commits  
18 an act clearly dangerous to human life that causes the death of an  
19 individual; [~~or~~]

20 (3) commits or attempts to commit a felony, other than  
21 manslaughter, and in the course of and in furtherance of the  
22 commission or attempt, or in immediate flight from the commission  
23 or attempt, the person [~~he~~] commits or attempts to commit an act  
24 clearly dangerous to human life that causes the death of an  
25 individual; or

26 (4) knowingly manufactures or delivers a controlled  
27 substance included in Penalty Group 1-B under Section 481.1022,

1 Health and Safety Code, in violation of Section 481.1123, Health  
2 and Safety Code, and an individual dies as a result of injecting,  
3 ingesting, inhaling, or introducing into the individual's body any  
4 amount of the controlled substance manufactured or delivered by the  
5 actor, regardless of whether the controlled substance was used by  
6 itself or with another substance, including a drug, adulterant, or  
7 dilutant.

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

12 SECTION 21. Section 71.02(a), Penal Code, is amended to  
13 read as follows:

14 (a) A person commits an offense if, with the intent to  
15 establish, maintain, or participate in a combination or in the  
16 profits of a combination or as a member of a criminal street gang,  
17 the person commits or conspires to commit one or more of the  
18 following:

19 (1) murder, capital murder, arson, aggravated  
20 robbery, robbery, burglary, theft, aggravated kidnapping,  
21 kidnapping, aggravated assault, aggravated sexual assault, sexual  
22 assault, continuous sexual abuse of young child or disabled  
23 individual, solicitation of a minor, forgery, deadly conduct,  
24 assault punishable as a Class A misdemeanor, burglary of a motor  
25 vehicle, or unauthorized use of a motor vehicle;

26 (2) any gambling offense punishable as a Class A  
27 misdemeanor;

- 1           (3) promotion of prostitution, aggravated promotion  
2 of prostitution, or compelling prostitution;
- 3           (4) unlawful manufacture, transportation, repair, or  
4 sale of firearms or prohibited weapons;
- 5           (5) unlawful manufacture, delivery, dispensation, or  
6 distribution of a controlled substance or dangerous drug, or  
7 unlawful possession of a controlled substance or dangerous drug  
8 through forgery, fraud, misrepresentation, or deception;
- 9           (5-a) causing the unlawful delivery, dispensation, or  
10 distribution of a controlled substance or dangerous drug in  
11 violation of Subtitle B, Title 3, Occupations Code;
- 12           (5-b) unlawful possession with intent to deliver a  
13 controlled substance listed in Penalty Group 1-B under Section  
14 [481.1022](#), Health and Safety Code;
- 15           (6) any unlawful wholesale promotion or possession of  
16 any obscene material or obscene device with the intent to wholesale  
17 promote the same;
- 18           (7) any offense under Subchapter [B](#), Chapter [43](#),  
19 depicting or involving conduct by or directed toward a child  
20 younger than 18 years of age;
- 21           (8) any felony offense under Chapter [32](#);
- 22           (9) any offense under Chapter [36](#);
- 23           (10) any offense under Chapter [34](#), [35](#), or [35A](#);
- 24           (11) any offense under Section [37.11\(a\)](#);
- 25           (12) any offense under Chapter [20A](#);
- 26           (13) any offense under Section [37.10](#);
- 27           (14) any offense under Section [38.06](#), [38.07](#), [38.09](#), or

1 38.11;

2 (15) any offense under Section 42.10;

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

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

5 (18) any offense under Section 16.02; or

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

8 SECTION 22. The change in law made by this Act to Section  
9 193.005, Health and Safety Code, applies only to a death that occurs  
10 on or after the effective date of this Act, or a death that occurs  
11 before that date but is discovered on or after the effective date of  
12 this Act.

13 SECTION 23. The changes in law made by this Act to Chapter  
14 481, Health and Safety Code, and Sections 19.02 and 71.02, Penal  
15 Code, apply only to an offense committed on or after the effective  
16 date of this Act. An offense committed before the effective date of  
17 this Act is governed by the law in effect on the date the offense was  
18 committed, and the former law is continued in effect for that  
19 purpose. For purposes of this section, an offense was committed  
20 before the effective date of this Act if any element of the offense  
21 occurred before that date.

22 SECTION 24. To the extent of any conflict, this Act prevails  
23 over another Act of the 88th Legislature, Regular Session, 2023,  
24 relating to nonsubstantive additions to and corrections in enacted  
25 codes.

26 SECTION 25. This Act takes effect September 1, 2023.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 6 was passed by the House on April 28, 2023, by the following vote: Yeas 124, Nays 21, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 6 on May 19, 2023, by the following vote: Yeas 125, Nays 10, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 6 was passed by the Senate, with amendments, on May 16, 2023, by the following vote: Yeas 30, Nays 1.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor