

By: Cain

H.B. No. 2107

A BILL TO BE ENTITLED

AN ACT

relating to the manufacture or delivery of a controlled substance or marihuana causing death or serious bodily injury; creating a criminal offense; increasing a criminal penalty.

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

SECTION 1. Section 481.122(c), Health and Safety Code, is amended to read as follows:

(c) An offense under this section is a felony of the second degree, except that the offense is a felony of the first degree if it is shown on the trial of the offense that the person to whom the actor delivered the controlled substance or marihuana died or suffered serious bodily injury as a result of injecting, ingesting, inhaling, or introducing into the person's body any amount of the controlled substance or marihuana manufactured or delivered by the actor, regardless of whether the controlled substance or marihuana was used by itself or with another substance, including a drug, adulterant, or dilutant.

SECTION 2. Section 481.141, Health and Safety Code, is amended to read as follows:

Sec. 481.141. OFFENSE: MANUFACTURE OR DELIVERY OF CONTROLLED SUBSTANCE CAUSING DEATH OR SERIOUS BODILY INJURY. (a) A person commits an offense if the person knowingly manufactures or delivers a controlled substance in violation of this chapter and ~~[If at the guilt or innocence phase of the trial of an offense~~

~~described by Subsection (b), the judge or jury, whichever is the~~
~~trier of fact, determines beyond a reasonable doubt that]~~ a person
dies ~~[died]~~ or suffers ~~[suffered]~~ serious bodily injury as a result
of injecting, ingesting, inhaling, or introducing into the person's
body any amount of the controlled substance manufactured or
delivered by the actor ~~[defendant]~~, regardless of whether the
controlled substance was used by itself or with another substance,
including a drug, adulterant, or dilutant~~[, the punishment for the~~
~~offense is increased by one degree]~~.

(b) An offense under this section is:

(1) ~~[This section applies to an offense otherwise~~
~~punishable as]~~ a ~~[state jail felony,]~~ felony of the third degree if
the commission of the offense resulted in serious bodily injury to a
person; or

(2) a ~~[, or]~~ felony of the second degree if the
commission of the offense resulted in the death of a person ~~[under~~
~~Section~~ ~~481.112, 481.1121, 481.1123, 481.113, 481.114, or~~
~~481.122]~~.

(c) It is a defense to prosecution under this section that
the actor's conduct in manufacturing or delivering the controlled
substance was authorized under this chapter or other state or
federal law.

(d) If conduct constituting an offense under this section
also constitutes an offense under another section of this chapter
or the Penal Code, the actor may be prosecuted under either section
or both sections.

(e) Notwithstanding Article ~~42.08~~, Code of Criminal

1 Procedure, if [~~punishment for~~] a defendant is convicted of an
2 offense [~~increased~~] under this section, the court may not order the
3 sentence for the offense to run concurrently with any other
4 sentence the court imposes on the defendant.

5 SECTION 3. The changes in law made by this Act apply only to
6 an offense committed on or after the effective date of this Act. An
7 offense committed before the effective date of this Act is governed
8 by the law in effect on the date the offense was committed, and the
9 former law is continued in effect for that purpose. For purposes of
10 this section, an offense was committed before the effective date of
11 this Act if any element of the offense occurred before that date.

12 SECTION 4. This Act takes effect September 1, 2023.