

By: Moody

H.B. No. 3242

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the criminal and licensing consequences of certain
3 offenses relating to the possession of marihuana, certain
4 tetrahydrocannabinols, certain synthetic cannabinoids, and drug
5 paraphernalia; imposing a fee.

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

7 SECTION 1. Article 14.06, Code of Criminal Procedure, is
8 amended by adding Subsections (b-1) and (b-2) and amending
9 Subsection (d) to read as follows:

10 (b-1) A peace officer who is charging a person with
11 committing an offense under Section 481.1161(b)(1), 481.121(b)(1),
12 or 481.125(a), Health and Safety Code, may not arrest the person and
13 shall issue the person a citation as provided by Subsection (b).

14 (b-2) Subsection (b-1) does not apply to an officer making
15 an arrest for an offense other than an offense under Section
16 481.1161(b)(1), 481.121(b)(1), or 481.125(a), Health and Safety
17 Code.

18 (d) Subsection (c) applies only to a person charged with
19 committing an offense under:

20 (1) Section 481.121, Health and Safety Code, if the
21 offense is punishable under Subsection (b)(1-a) [~~(b)(1)~~] or (2) of
22 that section;

23 (1-a) Section 481.1161, Health and Safety Code, if the
24 offense is punishable under Subsection (b)(1-a) [~~(b)(1)~~] or (2) of

1 that section;

2 (2) Section 28.03, Penal Code, if the offense is
3 punishable under Subsection (b)(2) of that section;

4 (3) Section 28.08, Penal Code, if the offense is
5 punishable under Subsection (b)(2) or (3) of that section;

6 (4) Section 31.03, Penal Code, if the offense is
7 punishable under Subsection (e)(2)(A) of that section;

8 (5) Section 31.04, Penal Code, if the offense is
9 punishable under Subsection (e)(2) of that section;

10 (5-a) Section 37.10, Penal Code, if the offense is for
11 tampering with a temporary tag issued under Chapter 502 or 503,
12 Transportation Code;

13 (6) Section 38.114, Penal Code, if the offense is
14 punishable as a Class B misdemeanor; or

15 (7) Section 521.457, Transportation Code.

16 SECTION 2. Article 45A.302, Code of Criminal Procedure, is
17 amended by adding Subsection (a-1) to read as follows:

18 (a-1) Unless the defendant has previously received a
19 deferral of disposition for an offense under Section
20 481.1161(b)(1), 481.121(b)(1), or 481.125(a), Health and Safety
21 Code, committed within the 12-month period preceding the date of
22 the commission of the instant offense, on plea of guilty or nolo
23 contendere for either offense, the judge shall defer further
24 proceedings without entering an adjudication of guilt and place the
25 defendant on deferred disposition under the provisions of this
26 article.

27 SECTION 3. Article 45A.305, Code of Criminal Procedure, is

1 amended by adding Subsection (a-1) to read as follows:

2 (a-1) A court that dismisses a complaint under Subsection
3 (a) for a person charged with an offense under Section
4 481.1161(b)(1), 481.121(b)(1), or 481.125(a), Health and Safety
5 Code, shall notify the defendant in writing of the person's
6 expunction rights under Article 45A.501 and provide the person with
7 a copy of that article.

8 SECTION 4. Chapter 45A, Code of Criminal Procedure, is
9 amended by adding Subchapter K to read as follows:

10 SUBCHAPTER K. EXPUNCTIONS

11 Art. 45A.501. EXPUNCTION OF CERTAIN RECORDS. (a) This
12 article applies only to a person charged with an offense under
13 Section 481.1161(b)(1), 481.121(b)(1), or 481.125(a), Health and
14 Safety Code.

15 (b) Records of a person relating to a complaint may be
16 expunged under this article if:

17 (1) the complaint was dismissed under Article 45A.305
18 or 45A.401 or other law and:

19 (A) at least 180 days have elapsed from the date
20 of the dismissal; or

21 (B) at least one year has elapsed from the date of
22 the citation; or

23 (2) the person was acquitted of the offense.

24 (c) The person must make a written request to have the
25 records expunged. The request must be under oath.

26 (d) The court shall order all complaints, verdicts,
27 sentences, and prosecutorial and law enforcement records and any

1 other documents relating to the offense expunged from the person's
2 record if the court finds that the person satisfies the
3 requirements of this article.

4 (e) The justice or municipal court shall require a person
5 who requests expungement under this article to pay a fee in the
6 amount of \$30 to defray the cost of notifying state agencies of
7 orders of expungement under this article.

8 (f) The procedures for expunction provided under this
9 article are separate and distinct from the expunction procedures
10 under Chapter 55A.

11 SECTION 5. Section 411.0728(a), Government Code, is amended
12 to read as follows:

13 (a) This section applies only to a person:

14 (1) who is convicted of or placed on deferred
15 adjudication community supervision for an offense under:

16 (A) Section 481.1161, Health and Safety Code, if
17 the offense is punishable under Subsection (b)(1-a);

18 (B) Section 481.120, Health and Safety Code, if
19 the offense is punishable under Subsection (b)(1);

20 (C) [~~(B)~~] Section 481.121, Health and Safety
21 Code, if the offense is punishable under Subsection (b)(1-a)
22 [~~(b)(1)~~];

23 (D) [~~(C)~~] Section 31.03, Penal Code, if the
24 offense is punishable under Subsection (e)(1) or (2); or

25 (E) [~~(D)~~] Section 43.02, Penal Code; and

26 (2) who, if requested by the applicable law
27 enforcement agency or prosecuting attorney to provide assistance in

1 the investigation or prosecution of an offense under Section
2 20A.02, 20A.03, or 43.05, Penal Code, or a federal offense
3 containing elements that are substantially similar to the elements
4 of an offense under any of those sections:

5 (A) provided assistance in the investigation or
6 prosecution of the offense; or

7 (B) did not provide assistance in the
8 investigation or prosecution of the offense due to the person's age
9 or a physical or mental disability resulting from being a victim of
10 an offense described by this subdivision.

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

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

20 (6) "Controlled substance analogue" means:

21 (A) a substance with a chemical structure
22 substantially similar to the chemical structure of a controlled
23 substance in Schedule I or II or Penalty Group 1, 1-A, 1-B, 2, [~~or~~]
24 2-A, or 2-B; or

25 (B) a substance specifically designed to produce
26 an effect substantially similar to, or greater than, the effect of a
27 controlled substance in Schedule I or II or Penalty Group 1, 1-A,

1 1-B, 2, [~~or~~] 2-A, or 2-B.

2 SECTION 7. Section 481.103(a), Health and Safety Code, is
3 amended to read as follows:

4 (a) Penalty Group 2 consists of:

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

10 5-(2-aminopropyl)benzofuran (5-APB);

11 6-(2-aminopropyl)benzofuran (6-APB);

12 5-(2-aminopropyl)-2,3-dihydrobenzofuran
13 (5-APDB);

14 6-(2-aminopropyl)-2,3-dihydrobenzofuran
15 (6-APDB);

16 5-(2-aminopropyl)indole (5-IT,5-API);

17 6-(2-aminopropyl)indole (6-IT,6-API);

18 1-(benzofuran-5-yl)-N-methylpropan-2-amine
19 (5-MAPB);

20 1-(benzofuran-6-yl)-N-methylpropan-2-amine
21 (6-MAPB);

22 Benzothiophenylcyclohexylpiperidine (BTCP);

23 8-bromo-alpha-methyl-benzo[1,2-b:4,5-b']difuran-
24 4-ethanamine (trade or other name: Bromo-DragonFLY);

25 Desoxypipradrol (2-benzhydrylpiperidine);

26 2, 5-dimethoxyamphetamine (some trade or other
27 names: 2, 5-dimethoxy-alpha-methylphenethylamine; 2, 5-DMA);

1 Diphenylprolinol (diphenyl(pyrrolidin-2-yl)
2 methanol, D2PM);
3 Dronabinol (synthetic) in sesame oil and
4 encapsulated in a soft gelatin capsule in a U.S. Food and Drug
5 Administration approved drug product (some trade or other names for
6 Dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro- 6,6, 9-
7 trimethyl-3-pentyl-6H- dibenzo [b,d]pyran-1-ol or (-)-delta-9-
8 (trans)- tetrahydrocannabinol);
9 Ethylamine Analog of Phencyclidine (some trade or
10 other names: N-ethyl-1-phenylcyclohexylamine, (1-
11 phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine,
12 cyclohexamine, PCE);
13 2-ethylamino-2-(3-methoxyphenyl)cyclohexanone
14 (trade or other name: methoxetamine);
15 Ibogaine (some trade or other names: 7-Ethyl-6,
16 6, beta 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5H-
17 pyrido [1', 2':1, 2] azepino [5, 4-b] indole; tabernanthe iboga.);
18 5-iodo-2-aminoindane (5-IAI);
19 Mescaline;
20 5-methoxy-3, 4-methylenedioxy amphetamine;
21 4-methoxyamphetamine (some trade or other
22 names: 4-methoxy-alpha-methylphenethylamine;
23 paramethoxyamphetamine; PMA);
24 4-methoxymethamphetamine (PMMA);
25 2-(2-methoxyphenyl)-2-(methylamino)cyclohexanone
26 (some trade and other names: 2-MeO-ketamine; methoxyketamine);
27 1-methyl- 4-phenyl-4-propionoxypiperidine (MPPP,

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

1 ~~synthetic equivalents of the substances contained in the plant, or~~
2 ~~in the resinous extractives of Cannabis, or synthetic substances,~~
3 ~~derivatives, and their isomers with similar chemical structure and~~
4 ~~pharmacological activity such as:~~

5 ~~[delta-1 cis or trans tetrahydrocannabinol,~~
6 ~~and their optical isomers;~~

7 ~~[delta-6 cis or trans tetrahydrocannabinol,~~
8 ~~and their optical isomers;~~

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

11 ~~[compounds of these structures, regardless~~
12 ~~of numerical designation of atomic positions, since nomenclature of~~
13 ~~these substances is not internationally standardized;]~~

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

17 1-pyrrolidine (some trade or other name: TCPy);

18 1-(3-trifluoromethylphenyl)piperazine (trade or
19 other name: TFMPP); and

20 3,4,5-trimethoxy amphetamine;

21 (2) Phenylacetone (some trade or other
22 names: Phenyl-2-propanone; P2P, Benzylmethyl ketone, methyl benzyl
23 ketone);

24 (3) unless specifically excepted or unless listed in
25 another Penalty Group, a material, compound, mixture, or
26 preparation that contains any quantity of the following substances
27 having a potential for abuse associated with a depressant or

1 stimulant effect on the central nervous system:

2 Aminorex (some trade or other
3 names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; 4,5-dihydro-5-
4 phenyl-2-oxazolamine);

5 Amphetamine, its salts, optical isomers, and
6 salts of optical isomers;

7 Cathinone (some trade or other names: 2-amino-1-
8 phenyl-1-propanone, alpha-aminopropiophenone, 2-
9 aminopropiophenone);

10 Etaqualone and its salts;

11 Etorphine Hydrochloride;

12 Fenethylamine and its salts;

13 Lisdexamfetamine, including its salts, isomers,
14 and salts of isomers;

15 Mecloqualone and its salts;

16 Methaqualone and its salts;

17 Methcathinone (some trade or other names: 2-
18 methylamino-propionophenone; alpha-(methylamino)propionophenone;
19 2-(methylamino)-1-phenylpropan-1-one; alpha-N-
20 methylaminopropionophenone; monomethylpropion; ephedrone, N-
21 methylcathinone; methylcathinone; AL-464; AL-422; AL-463; and UR
22 1431);

23 N-Ethylamphetamine, its salts, optical isomers,
24 and salts of optical isomers; and

25 N,N-dimethylamphetamine (some trade or other
26 names: N,N,alpha-trimethylbenzeneethanamine;
27 N,N,alpha-trimethylphenethylamine), its salts, optical isomers,

1 and salts of optical isomers;

2 (4) any compound structurally derived from
3 2-aminopropanal by substitution at the 1-position with any
4 monocyclic or fused-polycyclic ring system, including:

5 (A) compounds further modified by:

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

10 (ii) substitution at the 3-position with an
11 alkyl substituent; or

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

15 (B) by example, compounds such as:

16 4-Methylmethcathinone (Also known as
17 Mephedrone);

18 3,4-Dimethylmethcathinone (Also known as
19 3,4-DMMC);

20 3-Fluoromethcathinone (Also known as 3-FMC);

21 4-Fluoromethcathinone (Also known as
22 Flephedrone);

23 3,4-Methylenedioxy-N-methylcathinone (Also
24 known as Methylone);

25 3,4-Methylenedioxypropylone (Also known
26 as MDPV);

27 alpha-Pyrrolidinopentiophenone (Also known

- 1 as alpha-PVP);
- 2 Naphthylpyrovalerone (Also known as
- 3 Naphyrone);
- 4 alpha-Methylamino-valerophenone (Also known
- 5 as Pentedrone);
- 6 beta-Keto-N-methylbenzodioxolylpropylamine
- 7 (Also known as Butylone);
- 8 beta-Keto-N-methylbenzodioxolylpentanamine
- 9 (Also known as Pentylone);
- 10 beta-Keto-Ethylbenzodioxolylbutanamine
- 11 (Also known as Eutylone); and
- 12 3,4-methylenedioxy-N-ethylcathinone (Also
- 13 known as Ethylone);
- 14 (5) any compound structurally derived from tryptamine
- 15 (3-(2-aminoethyl)indole) or a ring-hydroxy tryptamine:
- 16 (A) by modification in any of the following ways:
- 17 (i) by substitution at the amine nitrogen
- 18 atom of the sidechain to any extent with alkyl or alkenyl groups or
- 19 by inclusion of the amine nitrogen atom of the side chain (and no
- 20 other atoms of the side chain) in a cyclic structure;
- 21 (ii) by substitution at the carbon atom
- 22 adjacent to the nitrogen atom of the side chain (alpha-position)
- 23 with an alkyl or alkenyl group;
- 24 (iii) by substitution in the 6-membered
- 25 ring to any extent with alkyl, alkoxy, haloalkyl, thioalkyl,
- 26 alkylenedioxy, or halide substituents; or
- 27 (iv) by substitution at the 2-position of

1 the tryptamine ring system with an alkyl substituent; and

2 (B) including:

3 (i) ethers and esters of the controlled
4 substances listed in this subdivision; and

5 (ii) by example, compounds such as:

6 alpha-ethyltryptamine;

7 alpha-methyltryptamine;

8 Bufotenine (some trade and other names:

9 3-(beta-Dimethylaminoethyl)-5-hydroxyindole;

10 3-(2-dimethylaminoethyl)- 5- indolol; N, N-dimethylserotonin;

11 5-hydroxy-N, N- dimethyltryptamine; mappine);

12 Diethyltryptamine (some trade and
13 other names: N, N-Diethyltryptamine, DET);

14 Dimethyltryptamine (trade or other
15 name: DMT);

16 5-methoxy-N, N-diisopropyltryptamine
17 (5-MeO-DiPT);

18 O-Acetylpsilocin (Trade or other name:
19 4-Aco-DMT);

20 Psilocin; and

21 Psilocybin;

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

27 4-Bromo-2,5-dimethoxyphenethylamine (trade or

1 other name: 2C-B);
2 4-Chloro-2,5-dimethoxyphenethylamine (trade or
3 other name: 2C-C);
4 2,5-Dimethoxy-4-methylphenethylamine (trade or
5 other name: 2C-D);
6 4-Ethyl-2,5-dimethoxyphenethylamine (trade or
7 other name: 2C-E);
8 4-Iodo-2,5-dimethoxyphenethylamine (trade or
9 other name: 2C-I);
10 2,5-Dimethoxy-4-nitrophenethylamine (trade or
11 other name: 2C-N);
12 2,5-Dimethoxy-4-(n)-propylphenethylamine (trade
13 or other name: 2C-P);
14 4-Ethylthio-2,5-dimethoxyphenethylamine (trade
15 or other name: 2C-T-2);
16 4-Isopropylthio-2,5-dimethoxyphenethylamine
17 (trade or other name: 2C-T-4); and
18 2,5-Dimethoxy-4-(n)-propylthiophenethylamine
19 (trade or other name: 2C-T-7); and
20 (7) 2,5-Dimethoxyamphetamine and any compound
21 structurally derived from 2,5-Dimethoxyamphetamine by substitution
22 at the 4-position of the phenyl ring to any extent (including alkyl,
23 alkoxy, alkylendioxy, haloalkyl, or halide substituents),
24 including, by example, compounds such as:
25 4-Ethylthio-2,5-dimethoxyamphetamine (trade or
26 other name: Aleph-2);
27 4-Isopropylthio-2,5-dimethoxyamphetamine (trade

1 or other name: Aleph-4);
2 4-Bromo-2,5-dimethoxyamphetamine (trade or other
3 name: DOB);
4 4-Chloro-2,5-dimethoxyamphetamine (trade or
5 other name: DOC);
6 2,5-Dimethoxy-4-ethylamphetamine (trade or other
7 name: DOET);
8 4-Iodo-2,5-dimethoxyamphetamine (trade or other
9 name: DOI);
10 2,5-Dimethoxy-4-methylamphetamine (trade or
11 other name: DOM);
12 2,5-Dimethoxy-4-nitroamphetamine (trade or other
13 name: DON);
14 4-Isopropyl-2,5-dimethoxyamphetamine (trade or
15 other name: DOIP); and
16 2,5-Dimethoxy-4-(n)-propylamphetamine (trade or
17 other name: DOPR).

18 SECTION 8. Subchapter D, Chapter 481, Health and Safety
19 Code, is amended by adding Section 481.1032 to read as follows:

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

25 Tetrahydrocannabinols, other than marihuana, and
26 synthetic equivalents of the substances contained in the plant, or
27 in the resinous extractives of Cannabis, or synthetic substances,

1 derivatives, and their isomers with similar chemical structure and
2 pharmacological activity such as:

3 delta-1 cis or trans tetrahydrocannabinol, and
4 their optical isomers;

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

7 delta-3, 4 cis or trans tetrahydrocannabinol, and
8 their optical isomers; or

9 compounds of these structures, regardless of
10 numerical designation of atomic positions, since nomenclature of
11 these substances is not internationally standardized.

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

14 SECTION 9. Section 481.106, Health and Safety Code, is
15 amended to read as follows:

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

21 (1) has a chemical structure substantially similar to
22 the chemical structure of a controlled substance listed in the
23 applicable penalty group; or

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

27 SECTION 10. The heading to Section 481.113, Health and

1 Safety Code, is amended to read as follows:

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

4 SECTION 11. Section 481.113(a), Health and Safety Code, is
5 amended to read as follows:

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

10 SECTION 12. Section 481.115(h), Health and Safety Code, is
11 amended to read as follows:

12 (h) The defense to prosecution provided by Subsection (g) is
13 not available if:

14 (1) at the time the request for emergency medical
15 assistance was made:

16 (A) a peace officer was in the process of
17 arresting the actor or executing a search warrant describing the
18 actor or the place from which the request for medical assistance was
19 made; or

20 (B) the actor is committing another offense,
21 other than an offense punishable under Section 481.1151(b)(1),
22 481.116(b), 481.1161(b)(1), (1-a), or (2), 481.117(b), 481.118(b),
23 or 481.121(b)(1), (1-a), or (2), or an offense under Section
24 481.119(b), 481.125(a), 483.041(a), or 485.031(a);

25 (2) the actor has been previously convicted of or
26 placed on deferred adjudication community supervision for an
27 offense under this chapter or Chapter 483 or 485;

1 (3) the actor was acquitted in a previous proceeding
2 in which the actor successfully established the defense under that
3 subsection or Section 481.1151(c), 481.116(f), 481.1161(c),
4 481.117(f), 481.118(f), 481.119(c), 481.121(c), 481.125(g),
5 483.041(e), or 485.031(c); or

6 (4) at any time during the 18-month period preceding
7 the date of the commission of the instant offense, the actor
8 requested emergency medical assistance in response to the possible
9 overdose of the actor or another person.

10 SECTION 13. Section 481.1151(d), Health and Safety Code, is
11 amended to read as follows:

12 (d) The defense to prosecution provided by Subsection (c) is
13 not available if:

14 (1) at the time the request for emergency medical
15 assistance was made:

16 (A) a peace officer was in the process of
17 arresting the actor or executing a search warrant describing the
18 actor or the place from which the request for medical assistance was
19 made; or

20 (B) the actor is committing another offense,
21 other than an offense punishable under Section 481.115(b),
22 481.116(b), 481.1161(b)(1), (1-a), or (2), 481.117(b), 481.118(b),
23 or 481.121(b)(1), (1-a), or (2), or an offense under Section
24 481.119(b), 481.125(a), 483.041(a), or 485.031(a);

25 (2) the actor has been previously convicted of or
26 placed on deferred adjudication community supervision for an
27 offense under this chapter or Chapter 483 or 485;

1 (3) the actor was acquitted in a previous proceeding
2 in which the actor successfully established the defense under that
3 subsection or Section 481.115(g), 481.116(f), 481.1161(c),
4 481.117(f), 481.118(f), 481.119(c), 481.121(c), 481.125(g),
5 483.041(e), or 485.031(c); or

6 (4) at any time during the 18-month period preceding
7 the date of the commission of the instant offense, the actor
8 requested emergency medical assistance in response to
9 the possible overdose of the actor or another person.

10 SECTION 14. Section 481.116(g), Health and Safety Code, is
11 amended to read as follows:

12 (g) The defense to prosecution provided by Subsection (f) is
13 not available if:

14 (1) at the time the request for emergency medical
15 assistance was made:

16 (A) a peace officer was in the process of
17 arresting the actor or executing a search warrant describing the
18 actor or the place from which the request for medical assistance was
19 made; or

20 (B) the actor is committing another offense,
21 other than an offense punishable under Section 481.115(b),
22 481.1151(b)(1), 481.1161(b)(1), (1-a), or (2), 481.117(b),
23 481.118(b), or 481.121(b)(1), (1-a), or (2), or an offense under
24 Section 481.119(b), 481.125(a), 483.041(a), or 485.031(a);

25 (2) the actor has been previously convicted of or
26 placed on deferred adjudication community supervision for an
27 offense under this chapter or Chapter 483 or 485;

1 (3) the actor was acquitted in a previous proceeding
2 in which the actor successfully established the defense under that
3 subsection or Section 481.115(g), 481.1151(c), 481.1161(c),
4 481.117(f), 481.118(f), 481.119(c), 481.121(c), 481.125(g),
5 483.041(e), or 485.031(c); or

6 (4) at any time during the 18-month period preceding
7 the date of the commission of the instant offense, the actor
8 requested emergency medical assistance in response to
9 the possible overdose of the actor or another person.

10 SECTION 15. The heading to Section 481.1161, Health and
11 Safety Code, is amended to read as follows:

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

14 SECTION 16. Sections 481.1161(a), (b), (c), and (d), Health
15 and Safety Code, are amended to read as follows:

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

21 (b) An offense under this section is:

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

25 (1-a) a Class B misdemeanor if the amount of the
26 controlled substance possessed is, by aggregate weight, including
27 adulterants or dilutants, two ounces or less but more than one

1 ounce;

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

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

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

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

16 (6) 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 5 years, and a
19 fine not to exceed \$50,000, if the amount of the controlled
20 substance possessed is, by aggregate weight, including adulterants
21 or dilutants, more than 2,000 pounds.

22 (c) It is a defense to prosecution for an offense punishable
23 under Subsection (b)(1), (1-a), or (2) that the actor:

24 (1) was the first person to request emergency medical
25 assistance in response to the possible overdose of another person
26 and:

27 (A) made the request for medical assistance

1 during an ongoing medical emergency;

2 (B) remained on the scene until the medical
3 assistance arrived; and

4 (C) cooperated with medical assistance and law
5 enforcement personnel; or

6 (2) was the victim of a possible overdose for which
7 emergency medical assistance was requested, by the actor or by
8 another person, during an ongoing medical emergency.

9 (d) The defense to prosecution provided by Subsection (c) is
10 not available if:

11 (1) at the time the request for emergency medical
12 assistance was made:

13 (A) a peace officer was in the process of
14 arresting the actor or executing a search warrant describing the
15 actor or the place from which the request for medical assistance was
16 made; or

17 (B) the actor is committing another offense,
18 other than an offense punishable under Section 481.115(b),
19 481.1151(b)(1), 481.116(b), 481.117(b), 481.118(b), or
20 481.121(b)(1), (1-a), or (2), or an offense under Section
21 481.119(b), 481.125(a), 483.041(a), or 485.031(a);

22 (2) the actor has been previously convicted of or
23 placed on deferred adjudication community supervision for an
24 offense under this chapter or Chapter 483 or 485;

25 (3) the actor was acquitted in a previous proceeding
26 in which the actor successfully established the defense under that
27 subsection or Section 481.115(g), 481.1151(c), 481.116(f),

1 481.117(f), 481.118(f), 481.119(c), 481.121(c), 481.125(g),
2 483.041(e), or 485.031(c); or

3 (4) at any time during the 18-month period preceding
4 the date of the commission of the instant offense, the actor
5 requested emergency medical assistance in response to
6 the possible overdose of the actor or another person.

7 SECTION 17. Section 481.117(g), Health and Safety Code, is
8 amended to read as follows:

9 (g) The defense to prosecution provided by Subsection (f) is
10 not available if:

11 (1) at the time the request for emergency medical
12 assistance was made:

13 (A) a peace officer was in the process of
14 arresting the actor or executing a search warrant describing the
15 actor or the place from which the request for medical assistance was
16 made; or

17 (B) the actor is committing another offense,
18 other than an offense punishable under Section 481.115(b),
19 481.1151(b)(1), 481.116(b), 481.1161(b)(1), (1-a), or (2),
20 481.118(b), or 481.121(b)(1), (1-a), or (2), or an offense under
21 Section 481.119(b), 481.125(a), 483.041(a), or 485.031(a);

22 (2) the actor has been previously convicted of or
23 placed on deferred adjudication community supervision for an
24 offense under this chapter or Chapter 483 or 485;

25 (3) the actor was acquitted in a previous proceeding
26 in which the actor successfully established the defense under that
27 subsection or Section 481.115(g), 481.1151(c), 481.116(f),

1 481.1161(c), 481.118(f), 481.119(c), 481.121(c), 481.125(g),
2 483.041(e), or 485.031(c); or

3 (4) at any time during the 18-month period preceding
4 the date of the commission of the instant offense, the actor
5 requested emergency medical assistance in response to
6 the possible overdose of the actor or another person.

7 SECTION 18. Section 481.118(g), Health and Safety Code, is
8 amended to read as follows:

9 (g) The defense to prosecution provided by Subsection (f) is
10 not available if:

11 (1) at the time the request for emergency medical
12 assistance was made:

13 (A) a peace officer was in the process of
14 arresting the actor or executing a search warrant describing the
15 actor or the place from which the request for medical assistance was
16 made; or

17 (B) the actor is committing another offense,
18 other than an offense punishable under Section 481.115(b),
19 481.1151(b)(1), 481.116(b), 481.1161(b)(1), (1-a), or (2),
20 481.117(b), or 481.121(b)(1), (1-a), or (2), or an offense under
21 Section 481.119(b), 481.125(a), 483.041(a), or 485.031(a);

22 (2) the actor has been previously convicted of or
23 placed on deferred adjudication community supervision for an
24 offense under this chapter or Chapter 483 or 485;

25 (3) the actor was acquitted in a previous proceeding
26 in which the actor successfully established the defense under that
27 subsection or Section 481.115(g), 481.1151(c), 481.116(f),

1 481.1161(c), 481.117(f), 481.119(c), 481.121(c), 481.125(g),
2 483.041(e), or 485.031(c); or

3 (4) at any time during the 18-month period preceding
4 the date of the commission of the instant offense, the actor
5 requested emergency medical assistance in response to
6 the possible overdose of the actor or another person.

7 SECTION 19. Section 481.119(d), Health and Safety Code, is
8 amended to read as follows:

9 (d) The defense to prosecution provided by Subsection (c) is
10 not available if:

11 (1) at the time the request for emergency medical
12 assistance was made:

13 (A) a peace officer was in the process of
14 arresting the actor or executing a search warrant describing the
15 actor or the place from which the request for medical assistance was
16 made; or

17 (B) the actor is committing another offense,
18 other than an offense punishable under Section 481.115(b),
19 481.1151(b)(1), 481.116(b), 481.1161(b)(1), (1-a), or (2),
20 481.117(b), 481.118(b), or 481.121(b)(1), (1-a), or (2), or an
21 offense under Section 481.125(a), 483.041(a), or 485.031(a);

22 (2) the actor has been previously convicted of or
23 placed on deferred adjudication community supervision for an
24 offense under this chapter or Chapter 483 or 485;

25 (3) the actor was acquitted in a previous proceeding
26 in which the actor successfully established the defense under that
27 subsection or Section 481.115(g), 481.1151(c), 481.116(f),

1 481.1161(c), 481.117(f), 481.118(f), 481.121(c), 481.125(g),
2 483.041(e), or 485.031(c); or

3 (4) at any time during the 18-month period preceding
4 the date of the commission of the instant offense, the actor
5 requested emergency medical assistance in response to
6 the possible overdose of the actor or another person.

7 SECTION 20. Sections 481.121(b), (c), and (d), Health and
8 Safety Code, are amended to read as follows:

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

10 (1) a Class C misdemeanor if the amount of marihuana
11 possessed is one ounce or less;

12 (1-a) a Class B misdemeanor if the amount of marihuana
13 possessed is two ounces or less but more than one ounce;

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 (c) It is a defense to prosecution for an offense punishable
2 under Subsection (b)(1), (1-a), or (2) that the actor:

3 (1) was the first person to request emergency medical
4 assistance in response to the possible overdose of another person
5 and:

6 (A) made the request for medical assistance
7 during an ongoing medical emergency;

8 (B) remained on the scene until the medical
9 assistance arrived; and

10 (C) cooperated with medical assistance and law
11 enforcement personnel; or

12 (2) was the victim of a possible overdose for which
13 emergency medical assistance was requested, by the actor or by
14 another person, during an ongoing medical emergency.

15 (d) The defense to prosecution provided by Subsection (c) is
16 not available if:

17 (1) at the time the request for emergency medical
18 assistance was made:

19 (A) a peace officer was in the process of
20 arresting the actor or executing a search warrant describing the
21 actor or the place from which the request for medical assistance was
22 made; or

23 (B) the actor is committing another offense,
24 other than an offense punishable under Section 481.115(b),
25 481.1151(b)(1), 481.116(b), 481.1161(b)(1), (1-a), or (2),
26 481.117(b), or 481.118(b), or an offense under Section 481.119(b),
27 481.125(a), 483.041(a), or 485.031(a);

1 (2) the actor has been previously convicted of or
2 placed on deferred adjudication community supervision for an
3 offense under this chapter or Chapter 483 or 485;

4 (3) the actor was acquitted in a previous proceeding
5 in which the actor successfully established the defense under that
6 subsection or Section 481.115(g), 481.1151(c), 481.116(f),
7 481.1161(c), 481.117(f), 481.118(f), 481.119(c), 481.125(g),
8 483.041(e), or 485.031(c); or

9 (4) at any time during the 18-month period preceding
10 the date of the commission of the instant offense, the actor
11 requested emergency medical assistance in response to the possible
12 overdose of the actor or another person.

13 SECTION 21. Section 481.122(a), Health and Safety Code, is
14 amended to read as follows:

15 (a) A person commits an offense if the person knowingly
16 delivers a controlled substance listed in Penalty Group 1, 1-A,
17 1-B, 2, 2-A, 2-B, or 3 or knowingly delivers marihuana and the
18 person delivers the controlled substance or marihuana to a person:

19 (1) who is a child;

20 (2) who is enrolled in a public or private primary or
21 secondary school; or

22 (3) who the actor knows or believes intends to deliver
23 the controlled substance or marihuana to a person described by
24 Subdivision (1) or (2).

25 SECTION 22. Section 481.124(d), Health and Safety Code, is
26 amended to read as follows:

27 (d) An offense under this section is:

1 (1) a felony of the second degree if the controlled
2 substance is listed in Penalty Group 1, 1-A, or 1-B;

3 (2) a felony of the third degree if the controlled
4 substance is listed in Penalty Group 2, 2-A, or 2-B;

5 (3) a state jail felony if the controlled substance is
6 listed in Penalty Group 3 or 4; or

7 (4) a Class A misdemeanor if the controlled substance
8 is listed in a schedule by an action of the commissioner under this
9 chapter but not listed in a penalty group.

10 SECTION 23. Section 481.125(h), Health and Safety Code, is
11 amended to read as follows:

12 (h) The defense to prosecution provided by Subsection (g) is
13 not available if:

14 (1) at the time the request for emergency medical
15 assistance was made:

16 (A) a peace officer was in the process of
17 arresting the actor or executing a search warrant describing the
18 actor or the place from which the request for medical assistance was
19 made; or

20 (B) the actor is committing another offense,
21 other than an offense punishable under Section 481.115(b),
22 481.1151(b)(1), 481.116(b), 481.1161(b)(1), (1-a), or (2),
23 481.117(b), 481.118(b), or 481.121(b)(1), (1-a), or (2), or an
24 offense under Section 481.119(b), 483.041(a), or 485.031(a);

25 (2) the actor has been previously convicted of or
26 placed on deferred adjudication community supervision for an
27 offense under this chapter or Chapter 483 or 485;

1 (3) the actor was acquitted in a previous proceeding
2 in which the actor successfully established the defense under that
3 subsection or Section 481.115(g), 481.1151(c), 481.116(f),
4 481.1161(c), 481.117(f), 481.118(f), 481.119(c), 481.121(c),
5 483.041(e), or 485.031(c); or

6 (4) at any time during the 18-month period preceding
7 the date of the commission of the instant offense, the actor
8 requested emergency medical assistance in response to the possible
9 overdose of the actor or another person.

10 SECTION 24. Section 481.134(f), Health and Safety Code, is
11 amended to read as follows:

12 (f) An offense otherwise punishable under Section
13 481.1161(b)(1-a), 481.118(b), 481.119(b), 481.120(b)(1), or
14 481.121(b)(1-a) [~~481.121(b)(1)~~] is a Class A misdemeanor if it is
15 shown on the trial of the offense that the offense was committed:

16 (1) in, on, or within 1,000 feet of any real property
17 that is owned, rented, or leased to a school or school board, the
18 premises of a public or private youth center, or a playground;

19 (2) on a school bus; or

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

24 SECTION 25. Section 483.041(f), Health and Safety Code, is
25 amended to read as follows:

26 (f) The defense to prosecution provided by Subsection (e) is
27 not available if:

1 (1) at the time the request for emergency medical
2 assistance was made:

3 (A) a peace officer was in the process of
4 arresting the actor or executing a search warrant describing the
5 actor or the place from which the request for medical assistance was
6 made; or

7 (B) the actor is committing another offense,
8 other than an offense punishable under Section 481.115(b),
9 481.1151(b)(1), 481.116(b), 481.1161(b)(1), (1-a), or (2),
10 481.117(b), 481.118(b), or 481.121(b)(1), (1-a), or (2), or an
11 offense under Section 481.119(b), 481.125(a), or 485.031(a);

12 (2) the actor has been previously convicted of or
13 placed on deferred adjudication community supervision for an
14 offense under this chapter or Chapter 481 or 485;

15 (3) the actor was acquitted in a previous proceeding
16 in which the actor successfully established the defense under that
17 subsection or Section 481.115(g), 481.1151(c), 481.116(f),
18 481.1161(c), 481.117(f), 481.118(f), 481.119(c), 481.121(c),
19 481.125(g), or 485.031(c); or

20 (4) at any time during the 18-month period preceding
21 the date of the commission of the instant offense, the actor
22 requested emergency medical assistance in response to the possible
23 overdose of the actor or another person.

24 SECTION 26. Section 485.031(d), Health and Safety Code, is
25 amended to read as follows:

26 (d) The defense to prosecution provided by Subsection (c) is
27 not available if:

1 (1) at the time the request for emergency medical
2 assistance was made:

3 (A) a peace officer was in the process of
4 arresting the actor or executing a search warrant describing the
5 actor or the place from which the request for medical assistance was
6 made; or

7 (B) the actor is committing another offense,
8 other than an offense punishable under Section 481.115(b),
9 481.1151(b)(1), 481.116(b), 481.1161(b)(1), (1-a), or (2),
10 481.117(b), 481.118(b), or 481.121(b)(1), (1-a), or (2), or an
11 offense under Section 481.119(b), 481.125(a), or 483.041(a);

12 (2) the actor has been previously convicted of or
13 placed on deferred adjudication community supervision for an
14 offense under this chapter or Chapter 481 or 483;

15 (3) the actor was acquitted in a previous proceeding
16 in which the actor successfully established the defense under that
17 subsection or Section 481.115(g), 481.1151(c), 481.116(f),
18 481.1161(c), 481.117(f), 481.118(f), 481.119(c), 481.121(c),
19 481.125(g), or 483.041(e); or

20 (4) at any time during the 18-month period preceding
21 the date of the commission of the instant offense, the actor
22 requested emergency medical assistance in response to the possible
23 overdose of the actor or another person.

24 SECTION 27. Sections 551.003(11) and (12), Occupations
25 Code, are amended to read as follows:

26 (11) "Controlled substance" means a substance,
27 including a drug:

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

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

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

9 (A) is not included in Penalty Group 1, 1-B, 2,
10 2-A, 2-B, 3, or 4, Chapter 481, Health and Safety Code, and is
11 unsafe for self-medication; or

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

13 (i) "Caution: federal law prohibits
14 dispensing without prescription" or "Rx only" or another legend
15 that complies with federal law; or

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

18 SECTION 28. Section 521.371(3), Transportation Code, is
19 amended to read as follows:

20 (3) "Drug offense" has the meaning assigned under 23
21 U.S.C. Section 159(c) and includes an offense under Section 49.04,
22 49.07, or 49.08, Penal Code, that is committed as a result of the
23 introduction into the body of any substance the possession of which
24 is prohibited under the Controlled Substances Act. The term does
25 not include an offense punishable by fine only under the laws of
26 this state.

27 SECTION 29. The changes in law made by this Act apply only

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

8 SECTION 30. This Act takes effect September 1, 2025.