

By: Johnson

S.B. No. 2028

A BILL TO BE ENTITLED

AN ACT

relating to the criminal and licensing consequences of certain offenses relating to the possession of marihuana, certain tetrahydrocannabinols, certain synthetic cannabinoids, and drug paraphernalia; imposing a fee.

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

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

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

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

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

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

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

that section;

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

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

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

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

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

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

(7) Section 521.457, Transportation Code.

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

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

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

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

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

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

SUBCHAPTER K. EXPUNCTIONS

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

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

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

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

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

(2) the person was acquitted of the offense.

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

(d) The court shall order all complaints, verdicts, 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

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

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

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

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

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

(6) "Controlled substance analogue" means:

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

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

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 Benzoethiophenylcyclohexylpiperidine (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: (a6aR-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~~



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

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

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

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

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

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

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

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

3,4,5-trimethoxy amphetamine;

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

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



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, alkylenedioxy, 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-Methylenedioxypyrovalerone (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

the tryptamine ring system with an alkyl substituent; and

(B) including:

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

(ii) by example, compounds such as:

alpha-ethyltryptamine;

alpha-methyltryptamine;

Bufotenine (some trade and other names:

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

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

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

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

Dimethyltryptamine (trade or other name: DMT);

5-methoxy-N, N-diisopropyltryptamine (5-MeO-DIPT);

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

Psilocin; and

Psilocybin;

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

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

or other name: Aleph-4);  
4-Bromo-2,5-dimethoxyamphetamine (trade or other  
name: DOB);  
4-Chloro-2,5-dimethoxyamphetamine (trade or  
other name: DOC);  
2,5-Dimethoxy-4-ethylamphetamine (trade or other  
name: DOET);  
4-Iodo-2,5-dimethoxyamphetamine (trade or other  
name: DOI);  
2,5-Dimethoxy-4-methylamphetamine (trade or  
other name: DOM);  
2,5-Dimethoxy-4-nitroamphetamine (trade or other  
name: DON);  
4-Isopropyl-2,5-dimethoxyamphetamine (trade or  
other name: DOIP); and  
2,5-Dimethoxy-4-(n)-propylamphetamine (trade or  
other name: DOPR).

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

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

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

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

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

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

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

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

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

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

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

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

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

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;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) An offense under this section is:

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

(1-a) a Class B misdemeanor if the amount of the controlled substance possessed is, by aggregate weight, including 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

during an ongoing medical emergency;

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

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

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

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

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

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

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

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

(3) the actor was acquitted in a previous proceeding in which the actor successfully established the defense under that 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.

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

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

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

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

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

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

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

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

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

(B) the actor is committing another offense, other than an offense punishable under Section 481.115(b), 481.1151(b)(1), 481.116(b), 481.1161(b)(1), (1-a), or (2), 481.117(b), or 481.118(b), or an offense under Section 481.119(b), 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) a felony of the second degree if the controlled substance is listed in Penalty Group 1, 1-A, or 1-B;

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

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

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

SECTION 23. Section [481.125\(h\)](#), Health and Safety Code, is amended to read as follows:

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

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

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

(B) the actor is committing another offense, other than an offense punishable under Section [481.115\(b\)](#), [481.1151\(b\)\(1\)](#), [481.116\(b\)](#), [481.1161\(b\)\(1\)](#), (1-a), or (2), [481.117\(b\)](#), [481.118\(b\)](#), or [481.121\(b\)\(1\)](#), (1-a), or (2), or an offense under Section [481.119\(b\)](#), [483.041\(a\)](#), or [485.031\(a\)](#);

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

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

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

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

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

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

(2) on a school bus; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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.