

TEXAS CONTROLLED SUBSTANCES ACT (Link under “Helpful Statutes”)

HEALTH & SAFETY CODE

SUBTITLE C. SUBSTANCE ABUSE REGULATION AND CRIMES

CHAPTER 481. TEXAS CONTROLLED SUBSTANCES ACT

§ 481.002. DEFINITIONS. In this chapter:

(1) "Administer" means to directly apply a controlled substance by injection, inhalation, ingestion, or other means to the body of a patient or research subject by:

(A) a practitioner or an agent of the practitioner in the presence of the practitioner; or

(B) the patient or research subject at the direction and in the presence of a practitioner.

(2) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. The term does not include a common or contract carrier, public warehouseman, or employee of a carrier or warehouseman acting in the usual and lawful course of employment.

(3) "Commissioner" means the commissioner of public health or the commissioner's designee.

(4) "Controlled premises" means:

(A) a place where original or other records or documents required under this chapter are kept or are required to be kept; or

(B) a place, including a factory, warehouse, other establishment, or conveyance, where a person registered under this chapter may lawfully hold, manufacture, distribute, dispense, administer, possess, or otherwise dispose of a controlled substance or other item governed by this chapter, including a chemical precursor and a chemical laboratory apparatus.

(5) "Controlled substance" means a substance, including a drug, an adulterant, and a dilutant, listed in Schedules I through V or Penalty Groups 1, 1-A, or 2 through 4. The term includes the aggregate weight of any mixture, solution, or other substance containing a controlled substance.

(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, or 2; 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, or 2.

(7) "Counterfeit substance" means a controlled substance that, without authorization, bears or is in a container or has a label that bears an actual or simulated trademark, trade name, or other identifying mark, imprint, number, or device of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

(8) "Deliver" means to transfer, actually or constructively, to another a controlled substance, counterfeit substance, or drug paraphernalia, regardless of whether there is an agency relationship. The term includes offering to sell a controlled substance, counterfeit substance, or drug paraphernalia.

(9) "Delivery" or "drug transaction" means the act of delivering.

(10) "Designated agent" means an individual designated under Section 481.073 to communicate a practitioner's instructions to a pharmacist.

(11) "Director" means the director of the Department of Public Safety or an employee of the department designated by the director.

(12) "Dispense" means the delivery of a controlled substance in the course of professional practice or research, by a practitioner or person acting under the lawful order of a practitioner, to an ultimate user or research subject. The term includes the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for delivery.

(13) "Dispenser" means a practitioner, institutional practitioner, pharmacist, or pharmacy that dispenses a controlled substance.

(14) "Distribute" means to deliver a controlled substance other than by administering or dispensing the substance.

(15) "Distributor" means a person who distributes.

(16) "Drug" means a substance, other than a device or a component, part, or accessory of a device, that is:

(A) recognized as a drug in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, official National Formulary, or a supplement to either pharmacopoeia or the formulary;

(B) intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals;

(C) intended to affect the structure or function of the body of man or animals but is not food; or

(D) intended for use as a component of a

substance described by Paragraph (A), (B), or (C).

(17) "Drug paraphernalia" means equipment, a product, or material that is used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, or concealing a controlled substance in violation of this chapter or in injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter.

The term includes:

(A) a kit used or intended for use in planting, propagating, cultivating, growing, or harvesting a species of plant that is a controlled substance or from which a controlled substance may be derived;

(B) a material, compound, mixture, preparation, or kit used or intended for use in manufacturing, compounding, converting, producing, processing, or preparing a controlled substance;

(C) an isomerization device used or intended for use in increasing the potency of a species of plant that is a controlled substance;

(D) testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness, or purity of a controlled substance;

(E) a scale or balance used or intended for use in weighing or measuring a controlled substance;

(F) a dilutant or adulterant, such as quinine hydrochloride, mannitol, inositol, nicotinamide, dextrose, lactose, or absorbent, blotter-type material, that is used or intended to be used to increase the amount or weight of or to transfer a controlled substance regardless of whether the dilutant or adulterant diminishes the efficacy of the controlled substance;

(G) a separation gin or sifter used or intended for use in removing twigs and seeds from or in otherwise cleaning or refining marihuana;

(H) a blender, bowl, container, spoon, or mixing device used or intended for use in compounding a controlled substance;

(I) a capsule, balloon, envelope, or other container used or intended for use in packaging small quantities of a controlled substance;

(J) a container or other object used or intended for use in storing or concealing a controlled substance;

(K) a hypodermic syringe, needle, or other object used or intended for use in parenterally injecting a controlled substance into the human body; and

(L) an object used or intended for use in ingesting, inhaling, or otherwise introducing marihuana, cocaine, hashish, or hashish oil into the human body, including:

- (i) a metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe with or without a screen, permanent screen, hashish head, or punctured metal bowl;
- (ii) a water pipe;
- (iii) a carburetion tube or device;
- (iv) a smoking or carburetion mask;
- (v) a chamber pipe;
- (vi) a carburetor pipe;
- (vii) an electric pipe;
- (viii) an air-driven pipe;
- (ix) a chillum;
- (x) a bong; or
- (xi) an ice pipe or chiller.

(18) "Federal Controlled Substances Act" means the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. Section 801 et seq.) or its successor statute.

(19) "Federal Drug Enforcement Administration" means the Drug Enforcement Administration of the United States Department of Justice or its successor agency.

(20) "Hospital" means:

(A) a general or special hospital as defined by Section 241.003 (Texas Hospital Licensing Law); or

(B) an ambulatory surgical center licensed by the Texas Department of Health and approved by the federal government to perform surgery paid by Medicaid on patients admitted for a period of not more than 24 hours.

(21) "Human consumption" means the injection, inhalation, ingestion, or application of a substance to or into a human body.

(22) "Immediate precursor" means a substance the director finds to be and by rule designates as being:

(A) a principal compound commonly used or produced primarily for use in the manufacture of a controlled substance;

(B) a substance that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance; and

(C) a substance the control of which is necessary to prevent, curtail, or limit the manufacture of a controlled substance.

(23) "Institutional practitioner" means an intern, resident physician, fellow, or person in an equivalent professional position who:

(A) is not licensed by the appropriate state professional licensing board;

(B) is enrolled in a bona fide professional training program in a base hospital or institutional training facility registered by the Federal Drug Enforcement Administration; and

(C) is authorized by the base hospital or institutional training facility to administer, dispense, or prescribe controlled substances.

(24) "Lawful possession" means the possession of a controlled substance that has been obtained in accordance with state or federal law.

(25) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance other than marihuana, directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes the packaging or repackaging of the substance or labeling or relabeling of its container. However, the term does not include the preparation, compounding, packaging, or labeling of a controlled substance:

(A) by a practitioner as an incident to the practitioner's administering or dispensing a controlled substance in the course of professional practice; or

(B) by a practitioner, or by an authorized agent under the supervision of the practitioner, for or as an incident to research, teaching, or chemical analysis and not for delivery.

(26) "Marihuana" means the plant *Cannabis sativa* L., whether growing or not, the seeds of that plant, and every compound, manufacture, salt, derivative, mixture, or preparation of that plant or its seeds. The term does not include:

(A) the resin extracted from a part of the plant or a compound, manufacture, salt, derivative, mixture, or preparation of the resin;

(B) the mature stalks of the plant or fiber produced from the stalks;

(C) oil or cake made from the seeds of the plant;

(D) a compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake;
or

(E) the sterilized seeds of the plant that are incapable of beginning germination.

(27) "Medical purpose" means the use of a controlled substance for relieving or curing a mental or physical disease or infirmity.

(28) "Medication order" means an order from a

practitioner to dispense a drug to a patient in a hospital for immediate administration while the patient is in the hospital or for emergency use on the patient's release from the hospital.

(29) "Narcotic drug" means any of the following, produced directly or indirectly by extraction from substances of vegetable origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(A) opium and opiates, and a salt, compound, derivative, or preparation of opium or opiates;

(B) a salt, compound, isomer, derivative, or preparation of a salt, compound, isomer, or derivative that is chemically equivalent or identical to a substance listed in Paragraph (A) other than the isoquinoline alkaloids of opium;

(C) opium poppy and poppy straw; or

(D) cocaine, including:

(i) its salts, its optical, position, or geometric isomers, and the salts of those isomers;

(ii) coca leaves and a salt, compound, derivative, or preparation of coca leaves; and

(iii) a salt, compound, derivative, or preparation of a salt, compound, or derivative that is chemically equivalent or identical to a substance described by Subparagraph (i) or (ii), other than decocainized coca leaves or extractions of coca leaves that do not contain cocaine or ecgonine.

(30) "Opiate" means a substance that has an addiction-forming or addiction-sustaining liability similar to morphine or is capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes its racemic and levorotatory forms. The term does not include, unless specifically designated as controlled under Subchapter B, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).

(31) "Opium poppy" means the plant of the species *Papaver somniferum* L., other than its seeds.

(32) "Patient" means a human for whom or an animal for which a drug is administered, dispensed, delivered, or prescribed by a practitioner.

(33) "Person" means an individual, corporation, government, business trust, estate, trust, partnership, association, or any other legal entity.

(34) "Pharmacist" means a person licensed by the Texas State Board of Pharmacy to practice pharmacy and who acts as an agent for a pharmacy.

(35) "Pharmacist-in-charge" means the pharmacist designated on a pharmacy license as the pharmacist who has the authority or responsibility for the pharmacy's compliance with this

chapter and other laws relating to pharmacy.

(36) "Pharmacy" means a facility licensed by the Texas State Board of Pharmacy where a prescription for a controlled substance is received or processed in accordance with state or federal law.

(37) "Poppy straw" means all parts, other than the seeds, of the opium poppy, after mowing.

(38) "Possession" means actual care, custody, control, or management.

(39) "Practitioner" means:

(A) a physician, dentist, veterinarian, podiatrist, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, analyze, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in this state;

(B) a pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in this state;

(C) a person practicing in and licensed by another state as a physician, dentist, veterinarian, or podiatrist, having a current Federal Drug Enforcement Administration registration number, who may legally prescribe Schedule II, III, IV, or V controlled substances in that state; or

(D) an advanced practice nurse or physician assistant to whom a physician has delegated the authority to carry out or sign prescription drug orders under Section 157.0511, 157.052, 157.053, 157.054, 157.0541, or 157.0542, Occupations Code.

(40) "Prescribe" means the act of a practitioner to authorize a controlled substance to be dispensed to an ultimate user.

(41) "Prescription" means an order by a practitioner to a pharmacist for a controlled substance for a particular patient that specifies:

(A) the date of issue;

(B) the name and address of the patient or, if the controlled substance is prescribed for an animal, the species of the animal and the name and address of its owner;

(C) the name and quantity of the controlled substance prescribed with the quantity shown numerically followed by the number written as a word if the order is written or, if the order is communicated orally or telephonically, with the quantity given by the practitioner and transcribed by the pharmacist

numerically;

(D) directions for the use of the drug;

(E) the intended use of the drug unless the practitioner determines the furnishing of this information is not in the best interest of the patient; and

(F) the legibly printed or stamped name, address, Federal Drug Enforcement Administration registration number, and telephone number of the practitioner at the practitioner's usual place of business.

(42) "Principal place of business" means a location where a person manufactures, distributes, dispenses, analyzes, or possesses a controlled substance. The term does not include a location where a practitioner dispenses a controlled substance on an outpatient basis unless the controlled substance is stored at that location.

(43) "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

(44) "Raw material" means a compound, material, substance, or equipment used or intended for use, alone or in any combination, in manufacturing a controlled substance.

(45) "Registrant" means a person who is registered under Section 481.063.

(46) "Substitution" means the dispensing of a drug or a brand of drug other than that which is ordered or prescribed.

(47) "Official prescription form" means a prescription form that contains the prescription information required by Section 481.075.

(48) "Ultimate user" means a person who has lawfully obtained and possesses a controlled substance for the person's own use, for the use of a member of the person's household, or for administering to an animal owned by the person or by a member of the person's household.

(49) "Adulterant or dilutant" means any material that increases the bulk or quantity of a controlled substance, regardless of its effect on the chemical activity of the controlled substance.

(50) "Abuse unit" means:

(A) except as provided by Paragraph (B):

(i) a single unit on or in any adulterant, dilutant, or similar carrier medium, including marked or perforated blotter paper, a tablet, gelatin wafer, sugar cube, or stamp, or other medium that contains any amount of a controlled substance listed in Penalty Group 1-A, if the unit is commonly used in abuse of that substance; or

(ii) each quarter-inch square section of

paper, if the adulterant, dilutant, or carrier medium is paper not marked or perforated into individual abuse units; or

(B) if the controlled substance is in liquid form, 40 micrograms of the controlled substance including any adulterant or dilutant.

(51) "Chemical precursor" means:

- (A) Methylamine;
- (B) Ethylamine;
- (C) D-lysergic acid;
- (D) Ergotamine tartrate;
- (E) Diethyl malonate;
- (F) Malonic acid;
- (G) Ethyl malonate;
- (H) Barbituric acid;
- (I) Piperidine;
- (J) N-acetylanthranilic acid;
- (K) Pyrrolidine;
- (L) Phenylacetic acid;
- (M) Anthranilic acid;
- (N) Ephedrine;
- (O) Pseudoephedrine;
- (P) Norpseudoephedrine; or
- (Q) Phenylpropanolamine.

(52) "Department" means the Department of Public Safety.

(53) "Chemical laboratory apparatus" means any item of equipment designed, made, or adapted to manufacture a controlled substance or a controlled substance analogue, including:

- (A) a condenser;
- (B) a distilling apparatus;
- (C) a vacuum drier;
- (D) a three-neck or distilling flask;
- (E) a tableting machine;
- (F) an encapsulating machine;
- (G) a filter, Buchner, or separatory funnel;
- (H) an Erlenmeyer, two-neck, or single-neck flask;
- (I) a round-bottom, Florence, thermometer, or filtering flask;
- (J) a Soxhlet extractor;
- (K) a transformer;
- (L) a flask heater;
- (M) a heating mantel; or
- (N) an adaptor tube.

by Acts 1989, 71st Leg., ch. 1100, § 5.02(b), eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 351, § 27, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 789, § 15, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 900, § 2.01, eff. Sept. 1, 1994; Acts 1997, 75th Leg., ch. 745, § 1, 2, eff. Jan. 1, 1998; Acts 1999, 76th Leg., ch. 145, § 1, 5(1), eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 251, § 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1188, § 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 88, § 9, eff. May 20, 2003; Acts 2003, 78th Leg., ch. 1099, § 4, eff. Sept. 1, 2003.

§ 481.101. CRIMINAL CLASSIFICATION. For the purpose of establishing criminal penalties for violations of this chapter, controlled substances, including a material, compound, mixture, or preparation containing the controlled substance, are divided into Penalty Groups 1 through 4.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 1100, § 5.02(n), eff. Sept. 1, 1989.

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

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

- Alfentanil;
- Allylprodine;
- Alphacetylmethadol;
- Benzethidine;
- Betaprodine;
- Clonitazene;
- Diampromide;
- Diethylthiambutene;
- Difenoxin not listed in Penalty Group 3 or 4;
- Dimenoxadol;
- Dimethylthiambutene;
- Dioxaphetyl butyrate;
- Dipipanone;
- Ethylmethylthiambutene;
- Etonitazene;
- Etoxeridine;
- Furethidine;
- Hydroxypethidine;

Ketobemidone;
Levophenacymorphan;
Meprodine;
Methadol;
Moramide;
Morpheridine;
Noracymethadol;
Norlevorphanol;
Normethadone;
Norpipanone;
Phenadoxone;
Phenampramide;
Phenomorphane;
Phenoperidine;
Piritramide;
Proheptazine;
Properidine;
Propiram;
Sufentanil;
Tilidine; and
Trimeperidine;

(2) the following opium derivatives, 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:

Acetorphine;
Acetyldihydrocodeine;
Benzylmorphine;
Codeine methylbromide;
Codeine-N-Oxide;
Cyprenorphine;
Desomorphine;
Dihydromorphine;
Drotebanol;
Etorphine, except hydrochloride salt;
Heroin;
Hydromorphanol;
Methyldesorphine;
Methyldihydromorphine;
Monoacetylmorphine;
Morphine methylbromide;
Morphine methylsulfonate;
Morphine-N-Oxide;
Myrophine;
Nicocodeine;
Nicomorphine;

Normorphine;
Pholcodine; and
Thebacon;

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

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

Codeine not listed in Penalty Group 3 or 4;
Dihydroetorphine;
Ethylmorphine not listed in Penalty Group 3 or 4;

Granulated opium;
Hydrocodone not listed in Penalty Group 3;
Hydromorphone;
Metopon;
Morphine not listed in Penalty Group 3;
Opium extracts;
Opium fluid extracts;
Oxycodone;
Oxymorphone;
Powdered opium;
Raw opium;
Thebaine; and
Tincture of opium;

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

(C) Opium poppy and poppy straw;

(D) Cocaine, including:
(i) its salts, its optical, position, and geometric isomers, and the salts of those isomers;
(ii) coca leaves and a salt, compound, derivative, or preparation of coca leaves;

(iii) a salt, compound, derivative, or preparation of a salt, compound, or derivative that is chemically equivalent or identical to a substance described by Subparagraph (i) or (ii), other than decocainized coca leaves or extractions of coca leaves that do not contain cocaine or ecgonine; and

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

(4) the following opiates, including their isomers,

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

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

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

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

Beta-hydroxy-3-methylfentanyl;
Bezitramide;
Carfentanil;
Dihydrocodeine not listed in Penalty Group 3 or 4;
Diphenoxylate not listed in Penalty Group 3 or 4;
Fentanyl or alpha-methylfentanyl, or any other derivative of Fentanyl;

Isomethadone;
Levomethorphan;
Levorphanol;
Metazocine;
Methadone;
Methadone-Intermediate,
4-cyano-2-dimethylamino-4, 4-diphenyl butane;
3-methylfentanyl(N-[3-methyl-1-(2-phenylethyl)-4-piperidinyl]-N-phenylpropanamide);
3-methylthiofentanyl(N-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;
Para-fluorofentanyl(N-(4-fluorophenyl)-N-1-(2-phenylethyl)-4-piperidinylpropanamide);

PEPAP
(1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
Pethidine (Meperidine);
Pethidine-Intermediate-A,
4-cyano-1-methyl-4-phenylpiperidine;
Pethidine-Intermediate-B,
ethyl-4-phenylpiperidine-4-carboxylate;
Pethidine-Intermediate-C,
1-methyl-4-phenylpiperidine-4-carboxylic acid;
Phenazocine;
Piminodine;

Racemethorphan;
Racemorphan;
Remifentanil; and
Thiofentanyl(N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]- propanamide);

- (5) Flunitrazepam (trade or other name: Rohypnol);
- (6) Methamphetamine, including its salts, optical isomers, and salts of optical isomers;
- (7) Phenylacetone and methylamine, if possessed together with intent to manufacture methamphetamine;
- (8) Phencyclidine, including its salts;
- (9) Gamma hydroxybutyric acid (some trade or other names: gamma hydroxybutyrate, GHB), including its salts; and
- (10) Ketamine.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 1100, § 5.02(n), eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 761, § 1, eff. Sept. 1, 1991. Amended by Acts 1997, 75th Leg., ch. 745, § 21, eff. Jan. 1, 1998; Acts 2001, 77th Leg., ch. 251, § 16, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 459, § 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1099, § 7, eff. Sept. 1, 2003.

§ 481.1021. PENALTY GROUP 1-A. Penalty Group 1-A consists of lysergic acid diethylamide (LSD), including its salts, isomers, and salts of isomers.

Added by Acts 1997, 75th Leg., ch. 745, § 22, eff. Jan. 1, 1998.

§ 481.103. PENALTY GROUP 2. (a) Penalty Group 2 consists of:

(1) any quantity of the following hallucinogenic 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:

alpha-ethyltryptamine;
4-bromo-2, 5-dimethoxyamphetamine (some trade or other names: 4-bromo- 2, 5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2, 5-DMA);
4-bromo-2, 5-dimethoxyphenethylamine;
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);
2, 5-dimethoxyamphetamine (some trade or other
names: 2, 5-dimethoxy- alpha-methylphenethylamine; 2, 5-DMA);
2, 5-dimethoxy-4-ethylamphetamine (trade or
other name : DOET);
2, 5-dimethoxy-4-(n)-propylthiophenethylamine
(trade or other name: 2C-T-7);
Dimethyltryptamine (trade or other name : DMT);
Dronabinol (synthetic) in sesame oil and
encapsulated in a soft gelatin capsule in a U.S. Food and Drug
Administration approved drug product (some trade or other names for
Dronabinol: (a6aR-trans)-6a,7,8,10a-tetrahydro- 6,6,
9-trimethyl-3-pentyl-6H- dibenzo [b,d]pyran-1-ol or
(-)-delta-9-(trans)- tetrahydrocannabinol);
Ethylamine Analog of Phencyclidine (some trade or
other names: N-ethyl-1-phenylcyclohexylamine,
(1-phenylcyclohexyl) ethylamine, N-(1- phenylcyclohexyl)
ethylamine, cyclohexamine, PCE);
Ibogaine (some trade or other names: 7-Ethyl-6,
6, beta 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6,
9-methano-5H-pyrido [1', 2':1, 2] azepino [5, 4-b] indole;
tabernanthe iboga.);
Mescaline;
5-methoxy-3, 4-methylenedioxy amphetamine;
4-methoxyamphetamine (some trade or other names:
4-methoxy-alpha- methylphenethylamine; paramethoxyamphetamine;
PMA);
1-methyl- 4-phenyl-4-propionoxypiperidine (MPPP,
PPMP);
4-methyl-2, 5-dimethoxyamphetamine (some trade
and other names: 4- methyl-2,
5-dimethoxy-alpha-methylphenethylamine; "DOM"; "STP");
3,4-methylenedioxy methamphetamine (MDMA, MDM);
3,4-methylenedioxy amphetamine;
3,4-methylenedioxy N-ethylamphetamine (Also
known as N-ethyl MDA);
Nabilone (Another name for nabilone:
(+)-trans-3-(1,1-dimethylheptyl)- 6,6a, 7,8,10,10a-hexahydro-1-
hydroxy-6,6- dimethyl-9H-dibenzo[b,d] pyran-9-one;
N-benzylpiperazine (some trade or other names:
BZP; 1-benzylpiperazine);
N-ethyl-3-piperidyl benzilate;
N-hydroxy-3,4-methylenedioxyamphetamine (Also
known as N-hydroxy MDA);

4-methylaminorex;
N-methyl-3-piperidyl benzilate;
Parahexyl (some trade or other names:
3-Hexyl-1-hydroxy-7, 8, 9, 10- tetrahydro-6, 6,
9-trimethyl-6H-dibenzo [b, d] pyran; Synhexyl);
1-Phenylcyclohexylamine;
1-Piperidinocyclohexanecarbonitrile (PCC);
Psilocin;
Psilocybin;
Pyrrolidine Analog of Phencyclidine (some trade
or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP);
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 its optical isomers;
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); and
(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
stimulant effect on the central nervous system:
Aminorex (some trade or other names: aminoxaphen;
2-amino-5-phenyl-2-oxazoline;
4,5-dihydro-5-phenyl-2-oxazolamine);
Amphetamine, its salts, optical isomers, and
salts of optical isomers;
Cathinone (some trade or other names:

2-amino-1-phenyl-1-propanone, alpha- aminopropiophenone,
2-aminopropiophenone);

Etorphine Hydrochloride;
Fenethylamine and its salts;
Mecloqualone and its salts;
Methaqualone and its salts;
Methcathinone (some trade or other names:

2-methylamino-propiofenone; alpha-(methylamino)propiofenone;
2-(methylamino)-1-phenylpropan-1-one;
alpha-N-methylaminopropiofenone; monomethylpropion;
ephedrone, N-methylcathinone; methylcathinone; AL-464; AL-422;
AL-463; and UR 1431);

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

N,N-dimethylamphetamine (some trade or other
names: N,N,alpha- trimethylbenzeneethanamine;
N,N,alpha-trimethylphenethylamine), its salts, optical isomers,
and salts of optical isomers.

(b) For the purposes of Subsection (a)(1) only, the term
"isomer" includes an optical, position, or geometric isomer.

Amended by Acts 1997, 75th Leg., ch. 745, § 23, eff. Jan. 1,
1998; Acts 2001, 77th Leg., ch. 251, § 17, eff. Sept. 1, 2001;
Acts 2003, 78th Leg., ch. 1099, § 8, eff. Sept. 1, 2003.

§ 481.104. PENALTY GROUP 3. (a) Penalty Group 3
consists of:

(1) a material, compound, mixture, or preparation that
contains any quantity of the following substances having a
potential for abuse associated with a stimulant effect on the
central nervous system:

Methylphenidate and its salts; and
Phenmetrazine and its salts;

(2) a material, compound, mixture, or preparation that
contains any quantity of the following substances having a
potential for abuse associated with a depressant effect on the
central nervous system:

a substance that contains any quantity of a
derivative of barbituric acid, or any salt of a derivative of
barbituric acid not otherwise described by this subsection;

a compound, mixture, or preparation containing
amobarbital, secobarbital, pentobarbital, or any salt of any of
these, and one or more active medicinal ingredients that are not
listed in any penalty group;

a suppository dosage form containing amobarbital,

secobarbital, pentobarbital, or any salt of any of these drugs, and approved by the United States Food and Drug Administration for marketing only as a suppository;

Alprazolam;
Amobarbital;
Bromazepam;
Camazepam;
Chlordiazepoxide;
Chlorhexadol;
Clobazam;
Clonazepam;
Clorazepate;
Clotiazepam;
Cloxazolam;
Delorazepam;
Diazepam;
Estazolam;
Ethyl loflazepate;
Fludiazepam;
Flurazepam;
Glutethimide;
Halazepam;
Haloxzolam;
Ketazolam;
Loprazolam;
Lorazepam;
Lormetazepam;
Lysergic acid, including its salts, isomers, and

salts of isomers;

Lysergic acid amide, including its salts,

isomers, and salts of isomers;

Mebutamate;
Medazepam;
Methyprylon;
Midazolam;
Nimetazepam;
Nitrazepam;
Nordiazepam;
Oxazepam;
Oxazolam;
Pentazocine, its salts, derivatives, or compounds

or mixtures thereof;

Pentobarbital;
Pinazepam;
Prazepam;
Quazepam;

Secobarbital;
Sulfondiethylmethane;
Sulfonethylmethane;
Sulfonmethane;
Temazepam;
Tetrazepam;
Tiletamine and zolazepam in combination, and its

salts. (some trade or other names for a tiletamine-zolazepam combination product: Telazol, for tiletamine:

2-(ethylamino)-2-(2-thienyl)-cyclohexanone, and for zolazepam:

4-(2-fluorophenyl)-6,

8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e](1,4)-d

diazepin-7(1H)-one, flupyrzapon);

Triazolam;

Zaleplon; and

Zolpidem;

(3) Nalorphine;

(4) a material, compound, mixture, or preparation

containing limited quantities of the following narcotic drugs, or any of their salts:

not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

not more than 300 milligrams of dihydrocodeinone (hydrocodone), or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

not more than 300 milligrams of dihydrocodeinone (hydrocodone), or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

not more than 300 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per

dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts; and

not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) a material, compound, mixture, or preparation that contains any quantity of the following substances:

Barbital;
Chloral betaine;
Chloral hydrate;
Ethchlorvynol;
Ethinamate;
Meprobamate;
Methohexital;
Methylphenobarbital (Mephobarbital);
Paraldehyde;
Petrichloral; and
Phenobarbital;

(6) Peyote, unless unharvested and growing in its natural state, meaning all parts of the plant classified botanically as *Lophophora*, whether growing or not, the seeds of the plant, an extract from a part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or extracts;

(7) unless listed in another penalty group, a material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including the substance's salts, optical, position, or geometric isomers, and salts of the substance's isomers, if the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

Benzphetamine;
Cathine [(+)-norpseudoephedrine];
Chlorphentermine;
Clortermine;
Diethylpropion;
Fencamfamin;
Fenfluramine;
Fenproporex;
Mazindol;
Mefenorex;
Modafinil;

their chelates);
Pemoline (including organometallic complexes and

Phendimetrazine;
Phentermine;
Pipradrol;
Sibutramine; and
SPA [(-)-1-dimethylamino-1,2-diphenylethane];

(8) unless specifically excepted or unless listed in another penalty group, a material, compound, mixture, or preparation that contains any quantity of the following substance, including its salts:

Dextropropoxyphene (Alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane); and

(9) an anabolic steroid or any substance that is chemically or pharmacologically related to testosterone, other than an estrogen, progestin, or corticosteroid, and promotes muscle growth, including:

Boldenone;
Chlorotestosterone (4-chlortestosterone);
Clostebol;
Dehydrochlormethyltestosterone;
Dihydrotestosterone (4-dihydrotestosterone);
Drostanolone;
Ethylestrenol;
Fluoxymesterone;
Formebolone;
Mesterolone;
Methandienone;
Methandranone;
Methandriol;
Methandrostenolone;
Methenolone;
Methyltestosterone;
Mibolerone;
Nandrolone;
Norethandrolone;
Oxandrolone;
Oxymesterone;
Oxymetholone;
Stanolone;
Stanozolol;
Testolactone;
Testosterone; and
Trenbolone.

(b) Penalty Group 3 does not include a compound, mixture, or preparation containing a stimulant substance listed in Subsection

(a)(1) if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant effect on the central nervous system and if the admixtures are included in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances that have a stimulant effect on the central nervous system.

(c) Penalty Group 3 does not include a compound, mixture, or preparation containing a depressant substance listed in Subsection (a)(2) or (a)(5) if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system and if the admixtures are included in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances that have a depressant effect on the central nervous system.

Amended by Acts 1997, 75th Leg., ch. 745, § 24, eff. Jan. 1, 1998; Acts 2001, 77th Leg., ch. 251, § 18, eff. Sept. 1, 2001.

§ 481.105. PENALTY GROUP 4. Penalty Group 4 consists of:

(1) a compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs that includes one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer on the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

not more than 15 milligrams of opium per 29.5729 milliliters or per 28.35 grams; and

not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;

(2) unless specifically excepted or unless listed in another penalty group, a material, compound, mixture, or preparation containing any quantity of the narcotic drug Buprenorphine or Butorphanol or a salt of either; and

(3) unless specifically exempted or excluded or unless listed in another penalty group, any material, compound, mixture, or preparation that contains any quantity of pyrovalerone, a

substance having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers.

Amended by Acts 1997, 75th Leg., ch. 745, § 25, eff. Jan. 1, 1998; Acts 2001, 77th Leg., ch. 251, § 19, eff. Sept. 1, 2001.

§ 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, and 2 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.

Added by Acts 2003, 78th Leg., ch. 1099, § 9, eff. Sept. 1, 2003.

§ 481.108. PREPARATORY OFFENSES. Title 4, Penal Code, applies to an offense under this chapter.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 900, § 2.02, eff. Sept. 1, 1994; Acts 1995, 74th Leg., ch. 318, § 36, eff. Sept. 1, 1995.

§ 481.111. EXEMPTIONS. (a) The provisions of this chapter relating to the possession and distribution of peyote do not apply to the use of peyote by a member of the Native American Church in bona fide religious ceremonies of the church. However, a person who supplies the substance to the church must register and maintain appropriate records of receipts and disbursements in accordance with rules adopted by the director. An exemption granted to a member of the Native American Church under this section does not apply to a member with less than 25 percent Indian blood.

(b) The provisions of this chapter relating to the possession of denatured sodium pentobarbital do not apply to possession by personnel of a humane society or an animal control agency for the purpose of destroying injured, sick, homeless, or unwanted animals if the humane society or animal control agency is registered with the Federal Drug Enforcement Administration. The provisions of this chapter relating to the distribution of

denatured sodium pentobarbital do not apply to a person registered as required by Subchapter C, who is distributing the substance for that purpose to a humane society or an animal control agency registered with the Federal Drug Enforcement Administration.

(c) A person does not violate Section 481.113, 481.116, 481.121, or 481.125 if the person possesses or delivers tetrahydrocannabinols or their derivatives, or drug paraphernalia to be used to introduce tetrahydrocannabinols or their derivatives into the human body, for use in a federally approved therapeutic research program.

(d) The provisions of this chapter relating to the possession and distribution of anabolic steroids do not apply to the use of anabolic steroids that are administered to livestock or poultry.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 1100, § 5.03(d), eff. Sept. 1, 1989.

§ 481.112. OFFENSE: MANUFACTURE OR DELIVERY OF SUBSTANCE IN PENALTY GROUP 1. (a) Except as authorized by this chapter, a person commits an offense if the person knowingly manufactures, delivers, or possesses with intent to deliver a controlled substance listed in Penalty Group 1.

(b) An offense under Subsection (a) is a state jail felony if the amount of the controlled substance to which the offense applies is, by aggregate weight, including adulterants or dilutants, less than one gram.

(c) An offense under Subsection (a) is a felony of the second degree if the amount of the controlled substance to which the offense applies is, by aggregate weight, including adulterants or dilutants, one gram or more but less than four grams.

(d) An offense under Subsection (a) is a felony of the first degree if the amount of the controlled substance to which the offense applies is, by aggregate weight, including adulterants or dilutants, four grams or more but less than 200 grams.

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

(f) An offense under Subsection (a) is punishable by imprisonment in the institutional division of the Texas Department of Criminal Justice for life or for a term of not more than 99 years

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

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 900, § 2.02, eff. Sept. 1, 1994; Acts 2001, 77th Leg., ch. 1188, § 2, eff. Sept. 1, 2001.

§ 481.1121. OFFENSE: MANUFACTURE OR DELIVERY OF SUBSTANCE IN PENALTY GROUP 1-A. (a) Except as provided by this chapter, a person commits an offense if the person knowingly manufactures, delivers, or possesses with intent to deliver a controlled substance listed in Penalty Group 1-A.

(b) An offense under this section is:

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

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

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

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

Added by Acts 1997, 75th Leg., ch. 745, § 26, eff. Jan. 1, 1998. Amended by Acts 2001, 77th Leg., ch. 1188, § 3, eff. Sept. 1, 2001.

§ 481.1122. MANUFACTURE OF SUBSTANCE IN PENALTY GROUP 1: PRESENCE OF CHILD. If it is shown at the punishment phase of a trial for the manufacture of a controlled substance listed in Penalty Group 1 that when the offense was committed a child younger than 18 years of age was present on the premises where the offense was committed:

(1) the punishments specified by Sections 481.112(b) and (c) are increased by one degree;

(2) the minimum term of imprisonment specified by Section 481.112(e) is increased to 15 years and the maximum fine specified by that section is increased to \$150,000; and

(3) the minimum term of imprisonment specified by Section 481.112(f) is increased to 20 years and the maximum fine specified by that section is increased to \$300,000.

Added by Acts 2007, 80th Leg., R.S., Ch. [840](#), § 1, eff. September 1, 2007.

§ 481.113. OFFENSE: MANUFACTURE OR DELIVERY OF SUBSTANCE IN PENALTY GROUP 2. (a) Except as authorized by this chapter, a person commits an offense if the person knowingly manufactures, delivers, or possesses with intent to deliver a controlled substance listed in Penalty Group 2.

(b) An offense under Subsection (a) is a state jail felony if the amount of the controlled substance to which the offense applies is, by aggregate weight, including adulterants or dilutants, less than one gram.

(c) An offense under Subsection (a) is a felony of the second degree if the amount of the controlled substance to which the offense applies is, by aggregate weight, including adulterants or dilutants, one gram or more but less than four grams.

(d) An offense under Subsection (a) is a felony of the first degree if the amount of the controlled substance to which the offense applies is, by aggregate weight, including adulterants or dilutants, four grams or more but less than 400 grams.

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

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 900, § 2.02, eff. Sept. 1, 1994; Acts 2001, 77th Leg., ch. 1188, § 4, eff. Sept. 1, 2001.

§ 481.114. OFFENSE: MANUFACTURE OR DELIVERY OF SUBSTANCE IN PENALTY GROUP 3 OR 4. (a) Except as authorized by this chapter, a person commits an offense if the person knowingly manufactures, delivers, or possesses with intent to deliver a controlled substance listed in Penalty Group 3 or 4.

(b) An offense under Subsection (a) is a state jail felony if the amount of the controlled substance to which the offense applies is, by aggregate weight, including adulterants or

dilutants, less than 28 grams.

(c) An offense under Subsection (a) is a felony of the second degree if the amount of the controlled substance to which the offense applies is, by aggregate weight, including adulterants or dilutants, 28 grams or more but less than 200 grams.

(d) An offense under Subsection (a) is a felony of the first degree, if the amount of the controlled substance to which the offense applies is, by aggregate weight, including adulterants or dilutants, 200 grams or more but less than 400 grams.

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

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 900, § 2.02, eff. Sept. 1, 1994; Acts 2001, 77th Leg., ch. 1188, § 5, eff. Sept. 1, 2001.

§ 481.115. OFFENSE: POSSESSION OF SUBSTANCE IN PENALTY GROUP 1. (a) Except as authorized by this chapter, a person commits an offense if the person knowingly or intentionally possesses a controlled substance listed in Penalty Group 1, 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 Subsection (a) is a state jail felony if the amount of the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, less than one gram.

(c) An offense under Subsection (a) is a felony of the third degree if the amount of the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, one gram or more but less than four grams.

(d) An offense under Subsection (a) is a felony of the second degree if the amount of the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, four grams or more but less than 200 grams.

(e) An offense under Subsection (a) is a felony of the first degree if the amount of the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, 200 grams or more but less than 400 grams.

(f) An offense under Subsection (a) is punishable by

imprisonment in the institutional division of the Texas Department of Criminal Justice for life or for a term of not more than 99 years or less than 10 years, and a fine not to exceed \$100,000, if the amount of the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, 400 grams or more.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 900, § 2.02, eff. Sept. 1, 1994.

§ 481.1151. OFFENSE: POSSESSION OF SUBSTANCE IN PENALTY GROUP 1-A. (a) Except as provided by this chapter, a person commits an offense if the person knowingly possesses a controlled substance listed in Penalty Group 1-A.

(b) An offense under this section is:

- (1) a state jail felony if the number of abuse units of the controlled substance is fewer than 20;
- (2) a felony of the third degree if the number of abuse units of the controlled substance is 20 or more but fewer than 80;
- (3) a felony of the second degree if the number of abuse units of the controlled substance is 80 or more but fewer than 4,000;
- (4) a felony of the first degree if the number of abuse units of the controlled substance is 4,000 or more but fewer than 8,000; and
- (5) punishable by imprisonment in the institutional division of the Texas Department of Criminal Justice for life or for a term of not more than 99 years or less than 15 years and a fine not to exceed \$250,000, if the number of abuse units of the controlled substance is 8,000 or more.

Added by Acts 1997, 75th Leg., ch. 745, § 26, eff. Jan. 1, 1998.

§ 481.116. OFFENSE: POSSESSION OF SUBSTANCE IN PENALTY GROUP 2. (a) Except as authorized by this chapter, a person commits an offense if the person knowingly or intentionally possesses a controlled substance listed in Penalty Group 2, 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 Subsection (a) is a state jail felony if the amount of the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, less than one gram.

(c) An offense under Subsection (a) is a felony of the third

degree if the amount of the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, one gram or more but less than four grams.

(d) An offense under Subsection (a) is a felony of the second degree if the amount of the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, four grams or more but less than 400 grams.

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

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 900, § 2.02, eff. Sept. 1, 1994.

§ 481.117. OFFENSE: POSSESSION OF SUBSTANCE IN PENALTY GROUP 3. (a) Except as authorized by this chapter, a person commits an offense if the person knowingly or intentionally possesses a controlled substance listed in Penalty Group 3, unless the person obtains 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 Subsection (a) is a Class A misdemeanor if the amount of the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, less than 28 grams.

(c) An offense under Subsection (a) is a felony of the third degree if the amount of the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, 28 grams or more but less than 200 grams.

(d) An offense under Subsection (a) is a felony of the second degree, if the amount of the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, 200 grams or more but less than 400 grams.

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

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 900, § 2.02, eff. Sept. 1, 1994.

§ 481.118. OFFENSE: POSSESSION OF SUBSTANCE IN PENALTY GROUP 4. (a) Except as authorized by this chapter, a person commits an offense if the person knowingly or intentionally possesses a controlled substance listed in Penalty Group 4, unless the person obtained the substance directly from or under a valid prescription or order of a practitioner acting in the course of practice.

(b) An offense under Subsection (a) is a Class B misdemeanor if the amount of the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, less than 28 grams.

(c) An offense under Subsection (a) is a felony of the third degree if the amount of the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, 28 grams or more but less than 200 grams.

(d) An offense under Subsection (a) is a felony of the second degree, if the amount of the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, 200 grams or more but less than 400 grams.

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

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 900, § 2.02, eff. Sept. 1, 1994.

§ 481.119. OFFENSE: MANUFACTURE, DELIVERY, OR POSSESSION OF MISCELLANEOUS SUBSTANCES. (a) A person commits an offense if the person knowingly manufactures, delivers, or possesses with intent to deliver a controlled substance listed in a schedule by an action of the commissioner under this chapter but not listed in a penalty group. An offense under this subsection is a Class A misdemeanor.

(b) A person commits an offense if the person knowingly or intentionally possesses a controlled substance listed in a schedule by an action of the commissioner under this chapter but not listed in a penalty group. An offense under this subsection is a Class B misdemeanor.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended

by Acts 2001, 77th Leg., ch. 1188, § 6, eff. Sept. 1, 2001.

§ 481.120. OFFENSE: DELIVERY OF MARIHUANA. (a) Except as authorized by this chapter, a person commits an offense if the person knowingly or intentionally delivers marihuana.

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

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

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

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

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

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

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

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 900, § 2.02, eff. Sept. 1, 1994.

§ 481.121. OFFENSE: POSSESSION OF MARIHUANA.

(a) Except as authorized by this chapter, a person commits an offense if the person knowingly or intentionally possesses a usable quantity of marihuana.

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

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

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

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

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

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

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

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 900, § 2.02, eff. Sept. 1, 1994.

§ 481.122. OFFENSE: DELIVERY OF CONTROLLED SUBSTANCE OR MARIHUANA TO CHILD. (a) A person commits an offense if the person knowingly delivers a controlled substance listed in Penalty Group 1, 1-A, 2, or 3 or knowingly delivers marihuana and the person delivers the controlled substance or marihuana to a person:

- (1) who is a child;
- (2) who is enrolled in a public or private primary or secondary school; or
- (3) who the actor knows or believes intends to deliver the controlled substance or marihuana to a person described by Subdivision (1) or (2).

(b) It is an affirmative defense to prosecution under this section that:

- (1) the actor was a child when the offense was committed; or
- (2) the actor:
 - (A) was younger than 21 years of age when the offense was committed;
 - (B) delivered only marihuana in an amount equal to or less than one-fourth ounce; and
 - (C) did not receive remuneration for the delivery.

(c) An offense under this section is a felony of the second degree.

(d) In this section, "child" means a person younger than 18 years of age.

(e) If conduct that is an offense under this section is also an offense under another section of this chapter, the actor may be prosecuted under either section or both.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 900, § 2.02, eff. Sept. 1, 1994; Acts 1997, 75th Leg., ch. 745, § 27, eff. Jan. 1, 1998; Acts 2001, 77th Leg., ch. 251, § 20, eff. Sept. 1, 2001.

§ 481.123. DEFENSE TO PROSECUTION FOR OFFENSE INVOLVING CONTROLLED SUBSTANCE ANALOGUE. (a) It is an affirmative defense to the prosecution of an offense under this subchapter involving the manufacture, delivery, or possession of a controlled substance analogue that the analogue:

- (1) was not in any part intended for human consumption;
- (2) was a substance for which there is an approved new drug application under Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Section 355); or
- (3) was a substance for which an exemption for investigational use has been granted under Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Section 355), if the actor's conduct with respect to the substance is in accord with the exemption.

(b) For the purposes of this section, Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Section 355) applies to the introduction or delivery for introduction of any new drug into intrastate, interstate, or foreign commerce.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 745, § 28, eff. Jan. 1, 1998; Acts 2003, 78th Leg., ch. 1099, § 10, eff. Sept. 1, 2003.

§ 481.124. OFFENSE: POSSESSION OR TRANSPORT OF CERTAIN CHEMICALS WITH INTENT TO MANUFACTURE CONTROLLED SUBSTANCE. (a) A person commits an offense if, with intent to unlawfully manufacture a controlled substance, the person possesses or transports:

- (1) anhydrous ammonia;
- (2) an immediate precursor; or
- (3) a chemical precursor or an additional chemical substance named as a precursor by the director under Section 481.077(b)(1).

(b) For purposes of this section, an intent to unlawfully manufacture the controlled substance methamphetamine is presumed if the actor possesses or transports:

- (1) anhydrous ammonia in a container or receptacle that is not designed and manufactured to lawfully hold or transport anhydrous ammonia;
- (2) lithium metal removed from a battery and immersed in kerosene, mineral spirits, or similar liquid that prevents or retards hydration; or
- (3) in one container, vehicle, or building, phenylacetic acid, or more than nine grams, three containers packaged for retail sale, or 300 tablets or capsules of a product

containing ephedrine or pseudoephedrine, and:

(A) anhydrous ammonia;

(B) at least three of the following categories of substances commonly used in the manufacture of methamphetamine:

(i) lithium or sodium metal or red phosphorus, iodine, or iodine crystals;

(ii) lye, sulfuric acid, hydrochloric acid, or muriatic acid;

(iii) an organic solvent, including ethyl ether, alcohol, or acetone;

(iv) a petroleum distillate, including naphtha, paint thinner, or charcoal lighter fluid; or

(v) aquarium, rock, or table salt; or

(C) at least three of the following items:

(i) an item of equipment subject to regulation under Section 481.080, if the person is not registered under Section 481.063; or

(ii) glassware, a plastic or metal container, tubing, a hose, or other item specially designed, assembled, or adapted for use in the manufacture, processing, analyzing, storing, or concealing of methamphetamine.

(c) For purposes of this section, a substance is presumed to be anhydrous ammonia if the substance is in a container or receptacle that is:

(1) designed and manufactured to lawfully hold or transport anhydrous ammonia; or

(2) not designed and manufactured to lawfully hold or transport anhydrous ammonia, if:

(A) a properly administered field test of the substance using a testing device or instrument designed and manufactured for that purpose produces a positive result for anhydrous ammonia; or

(B) a laboratory test of a water solution of the substance produces a positive result for ammonia.

(d) An offense under this section is:

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

(2) a felony of the third degree if the controlled substance is listed in Penalty Group 2;

(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.

(e) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the

actor may be prosecuted under either section or under both sections.

(f) This section does not apply to a chemical precursor exempted by the director under Section 481.077(b)(2) from the requirements of that section.

Added by Acts 2001, 77th Leg., ch. 1188, § 7, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 570, § 2, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. [282](#), § 6, eff. August 1, 2005.

§ 481.1245. OFFENSE: POSSESSION OR TRANSPORT OF ANHYDROUS AMMONIA; USE OF OR TAMPERING WITH EQUIPMENT. (a) A person commits an offense if the person:

(1) possesses or transports anhydrous ammonia in a container or receptacle that is not designed or manufactured to hold or transport anhydrous ammonia;

(2) uses, transfers, or sells a container or receptacle that is designed or manufactured to hold anhydrous ammonia without the express consent of the owner of the container or receptacle; or

(3) tampers with equipment that is manufactured or used to hold, apply, or transport anhydrous ammonia without the express consent of the owner of the equipment.

(b) An offense under this section is a felony of the third degree.

Added by Acts 2005, 79th Leg., Ch. [282](#), § 7, eff. August 1, 2005.

§ 481.125. OFFENSE: POSSESSION OR DELIVERY OF DRUG PARAPHERNALIA. (a) A person commits an offense if the person knowingly or intentionally uses or possesses with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled substance in violation of this chapter or to inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this chapter.

(b) A person commits an offense if the person knowingly or intentionally delivers, possesses with intent to deliver, or manufactures with intent to deliver drug paraphernalia knowing that the person who receives or who is intended to receive the drug

paraphernalia intends that it be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled substance in violation of this chapter or to inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this chapter.

(c) A person commits an offense if the person commits an offense under Subsection (b), is 18 years of age or older, and the person who receives or who is intended to receive the drug paraphernalia is younger than 18 years of age and at least three years younger than the actor.

(d) An offense under Subsection (a) is a Class C misdemeanor.

(e) An offense under Subsection (b) is a Class A misdemeanor, unless it is shown on the trial of a defendant that the defendant has previously been convicted under Subsection (b) or (c), in which event the offense is punishable by confinement in jail for a term of not more than one year or less than 90 days.

(f) An offense under Subsection (c) is a state jail felony.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 900, § 2.02, eff. Sept. 1, 1994.

§ 481.126. OFFENSE: ILLEGAL BARTER, EXPENDITURE, OR INVESTMENT. (a) A person commits an offense if the person:

(1) barter property or expends funds the person knows are derived from the commission of an offense under this chapter punishable by imprisonment in the institutional division of the Texas Department of Criminal Justice for life;

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

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

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

(b) An offense under Subsection (a)(1) or (3) is a felony of the first degree. An offense under Subsection (a)(2) or (4) is a felony of the second degree.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended

by Acts 1993, 73rd Leg., ch. 900, § 2.02, eff. Sept. 1, 1994; Acts 1995, 74th Leg., ch. 318, § 37, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 251, § 21, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 712, § 1, eff. Sept. 1, 2003.

§ 481.127. OFFENSE: UNAUTHORIZED DISCLOSURE OF INFORMATION. (a) A person commits an offense if the person knowingly gives, permits, or obtains unauthorized access to information submitted to the director under Section 481.075.

(b) An offense under this section is a state jail felony.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 900, § 2.02, eff. Sept. 1, 1994; Acts 1997, 75th Leg., ch. 745, § 29, eff. Jan. 1, 1998.

§ 481.128. OFFENSE AND CIVIL PENALTY: COMMERCIAL MATTERS. (a) A registrant or dispenser commits an offense if the registrant or dispenser knowingly:

- (1) distributes, delivers, administers, or dispenses a controlled substance in violation of Sections 481.070-481.075;
- (2) manufactures a controlled substance not authorized by the person's registration or distributes or dispenses a controlled substance not authorized by the person's registration to another registrant or other person;
- (3) refuses or fails to make, keep, or furnish a record, report, notification, order form, statement, invoice, or information required by this chapter;
- (4) prints, manufactures, possesses, or produces an official prescription form without the approval of the director;
- (5) delivers or possesses a counterfeit official prescription form;
- (6) refuses an entry into a premise for an inspection authorized by this chapter;
- (7) refuses or fails to return an official prescription form as required by Section 481.075(k);
- (8) refuses or fails to make, keep, or furnish a record, report, notification, order form, statement, invoice, or information required by a rule adopted by the director; or
- (9) refuses or fails to maintain security required by this chapter or a rule adopted under this chapter.

(b) If the registrant or dispenser knowingly refuses or fails to make, keep, or furnish a record, report, notification, order form, statement, invoice, or information or maintain security required by a rule adopted by the director, the registrant or

dispenser is liable to the state for a civil penalty of not more than \$5,000 for each act.

(c) An offense under Subsection (a) is a state jail felony.

(d) If a person commits an act that would otherwise be an offense under Subsection (a) except that it was committed without the requisite culpable mental state, the person is liable to the state for a civil penalty of not more than \$1,000 for each act.

(e) A district attorney of the county where the act occurred may file suit in district court in that county to collect a civil penalty under this section, or the district attorney of Travis County or the attorney general may file suit in district court in Travis County to collect the penalty.

Amended by Acts 1993, 73rd Leg., ch. 900, § 2.02, eff. Sept. 1, 1994; Acts 1997, 75th Leg., ch. 745, § 30, eff. Jan. 1, 1998; Acts 2001, 77th Leg., ch. 251, § 22, eff. Sept. 1, 2001.

§ 481.129. OFFENSE: FRAUD. (a) A person commits an offense if the person knowingly:

(1) distributes as a registrant or dispenser a controlled substance listed in Schedule I or II, unless the person distributes the controlled substance under an order form as required by Section 481.069;

(2) uses in the course of manufacturing, prescribing, or distributing a controlled substance a registration number that is fictitious, revoked, suspended, or issued to another person;

(3) issues a prescription bearing a forged or fictitious signature;

(4) uses a prescription issued to another person to prescribe a Schedule II controlled substance;

(5) possesses, obtains, or attempts to possess or obtain a controlled substance or an increased quantity of a controlled substance:

(A) by misrepresentation, fraud, forgery, deception, or subterfuge;

(B) through use of a fraudulent prescription form; or

(C) through use of a fraudulent oral or telephonically communicated prescription; or

(6) furnishes false or fraudulent material information in or omits material information from an application, report, record, or other document required to be kept or filed under this chapter.

(b) A person commits an offense if the person knowingly or intentionally:

(1) makes, distributes, or possesses a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce an actual or simulated trademark, trade name, or other identifying mark, imprint, or device of another on a controlled substance or the container or label of a container for a controlled substance, so as to make the controlled substance a counterfeit substance; or

(2) manufactures, delivers, or possesses with intent to deliver a counterfeit substance.

(c) A person commits an offense if the person knowingly or intentionally:

(1) delivers a prescription or a prescription form for other than a valid medical purpose in the course of professional practice; or

(2) possesses a prescription for a controlled substance or a prescription form unless the prescription or prescription form is possessed:

(A) during the manufacturing or distribution process;

(B) by a practitioner, practitioner's agent, or an institutional practitioner for a valid medical purpose during the course of professional practice;

(C) by a pharmacist or agent of a pharmacy during the professional practice of pharmacy;

(D) under a practitioner's order made by the practitioner for a valid medical purpose in the course of professional practice; or

(E) by an officer or investigator authorized to enforce this chapter within the scope of the officer's or investigator's official duties.

(d) An offense under Subsection (a) is:

(1) a felony of the second degree if the controlled substance that is the subject of the offense is listed in Schedule I or II;

(2) a felony of the third degree if the controlled substance that is the subject of the offense is listed in Schedule III or IV; and

(3) a Class A misdemeanor if the controlled substance that is the subject of the offense is listed in Schedule V.

(e) An offense under Subsection (b) is a Class A misdemeanor.

(f) An offense under Subsection (c)(1) is:

(1) a felony of the second degree if the defendant delivers:

(A) a prescription form; or

(B) a prescription for a controlled substance

listed in Schedule II; and

(2) a felony of the third degree if the defendant delivers a prescription for a controlled substance listed in Schedule III, IV, or V.

(g) An offense under Subsection (c)(2) is:

(1) a state jail felony if the defendant possesses:

(A) a prescription form; or

(B) a prescription for a controlled substance listed in Schedule II or III; and

(2) a Class B misdemeanor if the defendant possesses a prescription for a controlled substance listed in Schedule IV or V.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 1100, § 5.02(p), eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 900, § 2.02, eff. Sept. 1, 1994; Acts 1997, 75th Leg., ch. 745, § 31, eff. Jan. 1, 1998; Acts 2001, 77th Leg., ch. 251, § 23, eff. Sept. 1, 2001.

§ 481.130. PENALTIES UNDER OTHER LAW. A penalty imposed for an offense under this chapter is in addition to any civil or administrative penalty or other sanction imposed by law.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

§ 481.131. OFFENSE: DIVERSION OF CONTROLLED SUBSTANCE PROPERTY OR PLANT. (a) A person commits an offense if the person intentionally or knowingly:

(1) converts to the person's own use or benefit a controlled substance property or plant seized under Section 481.152 or 481.153; or

(2) diverts to the unlawful use or benefit of another person a controlled substance property or plant seized under Section 481.152 or 481.153.

(b) An offense under this section is a state jail felony.

Added by Acts 1991, 72nd Leg., ch. 141, § 2, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 900, § 2.02, eff. Sept. 1, 1994.

§ 481.132. MULTIPLE PROSECUTIONS. (a) In this section, "criminal episode" means the commission of two or more offenses under this chapter under the following circumstances:

(1) the offenses are committed pursuant to the same

transaction or pursuant to two or more transactions that are connected or constitute a common scheme, plan, or continuing course of conduct; or

(2) the offenses are the repeated commission of the same or similar offenses.

(b) A defendant may be prosecuted in a single criminal action for all offenses arising out of the same criminal episode. If a single criminal action is based on more than one charging instrument within the jurisdiction of the trial court, not later than the 30th day before the date of the trial, the state shall file written notice of the action.

(c) If a judgment of guilt is reversed, set aside, or vacated and a new trial is ordered, the state may not prosecute in a single criminal action in the new trial any offense not joined in the former prosecution unless evidence to establish probable guilt for that offense was not known to the appropriate prosecution official at the time the first prosecution began.

(d) If the accused is found guilty of more than one offense arising out of the same criminal episode prosecuted in a single criminal action, sentence for each offense for which the accused has been found guilty shall be pronounced, and those sentences run concurrently.

(e) If it appears that a defendant or the state is prejudiced by a joinder of offenses, the court may order separate trials of the offenses or provide other relief as justice requires.

(f) This section provides the exclusive method for consolidation and joinder of prosecutions for offenses under this chapter. This section is not a limitation of Article 36.09 or 36.10, Code of Criminal Procedure.

Added by Acts 1991, 72nd Leg., ch. 193, § 1, eff. Sept. 1, 1991.
Renumbered from Health & Safety Code § 481.131 by Acts 1991, 72nd Leg., 1st C.S., ch. 14, § 8.01(17a), eff. Nov. 12, 1991.

§ 481.133. OFFENSE: FALSIFICATION OF DRUG TEST RESULTS. (a) A person commits an offense if the person knowingly or intentionally uses or possesses with intent to use any substance or device designed to falsify drug test results.

(b) A person commits an offense if the person knowingly or intentionally delivers, possesses with intent to deliver, or manufactures with intent to deliver a substance or device designed to falsify drug test results.

(c) In this section, "drug test" means a lawfully administered test designed to detect the presence of a controlled substance or marihuana.

(d) An offense under Subsection (a) is a Class B misdemeanor.

(e) An offense under Subsection (b) is a Class A misdemeanor.

Added by Acts 1991, 72nd Leg., ch. 274, § 1, eff. Sept. 1, 1991.
Renumbered from Health & Safety Code § 481.131 by Acts 1991, 72nd Leg., 1st C.S., ch. 14, § 8.01(17b), eff. Nov. 12, 1991.

§ 481.134. DRUG-FREE ZONES. (a) In this section:

(1) "Minor" means a person who is younger than 18 years of age.

(2) "Institution of higher education" means any public or private technical institute, junior college, senior college or university, medical or dental unit, or other agency of higher education as defined by Section 61.003, Education Code.

(3) "Playground" means any outdoor facility that is not on the premises of a school and that:

(A) is intended for recreation;

(B) is open to the public; and

(C) contains three or more separate apparatus intended for the recreation of children, such as slides, swing sets, and teeterboards.

(4) "Premises" means real property and all buildings and appurtenances pertaining to the real property.

(5) "School" means a private or public elementary or secondary school or a day-care center, as defined by Section 42.002, Human Resources Code.

(6) "Video arcade facility" means any facility that:

(A) is open to the public, including persons who are 17 years of age or younger;

(B) is intended primarily for the use of pinball or video machines; and

(C) contains at least three pinball or video machines.

(7) "Youth center" means any recreational facility or gymnasium that:

(A) is intended primarily for use by persons who are 17 years of age or younger; and

(B) regularly provides athletic, civic, or cultural activities.

(b) An offense otherwise punishable as a state jail felony under Section 481.112, 481.113, 481.114, or 481.120 is punishable as a felony of the third degree, and an offense otherwise punishable as a felony of the second degree under any of those sections is

punishable as a felony of the first degree, if it is shown at the punishment phase of the trial of the offense that the offense was committed:

(1) in, on, or within 1,000 feet of premises owned, rented, or leased by an institution of higher learning, the premises of a public or private youth center, or a playground; or

(2) in, on, or within 300 feet of the premises of a public swimming pool or video arcade facility.

(c) The minimum term of confinement or imprisonment for an offense otherwise punishable under Section 481.112(c), (d), (e), or (f), 481.113(c), (d), or (e), 481.114(c), (d), or (e), 481.115(c)-(f), 481.116(c), (d), or (e), 481.117(c), (d), or (e), 481.118(c), (d), or (e), 481.120(b)(4), (5), or (6), or 481.121(b)(4), (5), or (6) is increased by five years and the maximum fine for the offense is doubled if it is shown on the trial of the offense that the offense was committed:

(1) in, on, or within 1,000 feet of premises of a school or a public or private youth center; or

(2) on a school bus.

(d) An offense otherwise punishable under Section 481.112(b), 481.113(b), 481.114(b), 481.115(b), 481.116(b), 481.120(b)(3), or 481.121(b)(3) is a felony of the third degree 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 or the premises of a public or private youth center; or

(2) on a school bus.

(e) An offense otherwise punishable under Section 481.117(b), 481.119(a), 481.120(b)(2), or 481.121(b)(2) is a state jail felony 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 or the premises of a public or private youth center; or

(2) on a school bus.

(f) An offense otherwise punishable under Section 481.118(b), 481.119(b), 481.120(b)(1), or 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 or the premises of a public or private youth center; or

(2) on a school bus.

(g) Subsection (f) does not apply to an offense if:

(1) the offense was committed inside a private

residence; and

(2) no minor was present in the private residence at the time the offense was committed.

(h) Punishment that is increased for a conviction for an offense listed under this section may not run concurrently with punishment for a conviction under any other criminal statute.

Added by Acts 1993, 73rd Leg., ch. 888, § 1, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 260, § 39, eff. May 30, 1995; Acts 1995, 74th Leg., ch. 318, § 38, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1063, § 9, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 570, § 3, eff. Sept. 1, 2003.

§ 481.135. MAPS AS EVIDENCE OF LOCATION OR AREA.

(a) In a prosecution under Section 481.134, a map produced or reproduced by a municipal or county engineer for the purpose of showing the location and boundaries of drug-free zones is admissible in evidence and is prima facie evidence of the location or boundaries of those areas if the governing body of the municipality or county adopts a resolution or ordinance approving the map as an official finding and record of the location or boundaries of those areas.

(b) A municipal or county engineer may, on request of the governing body of the municipality or county, revise a map that has been approved by the governing body of the municipality or county as provided by Subsection (a).

(c) A municipal or county engineer shall file the original or a copy of every approved or revised map approved as provided by Subsection (a) with the county clerk of each county in which the area is located.

(d) This section does not prevent the prosecution from:

(1) introducing or relying on any other evidence or testimony to establish any element of an offense for which punishment is increased under Section 481.134; or

(2) using or introducing any other map or diagram otherwise admissible under the Texas Rules of Evidence.

Added by Acts 1993, 73rd Leg., ch. 888, § 3, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. [728](#), § 9.004, eff. September 1, 2005.

§ 481.136. OFFENSE: UNLAWFUL TRANSFER OR RECEIPT OF

CHEMICAL PRECURSOR. (a) A person commits an offense if the person sells, transfers, furnishes, or receives a chemical precursor subject to Section 481.077(a) and the person:

- (1) does not hold a chemical precursor transfer permit as required by Section 481.078 at the time of the transaction;
- (2) does not comply with Section 481.077 or 481.0771;
- (3) knowingly makes a false statement in a report or record required by Section 481.077, 481.0771, or 481.078; or
- (4) knowingly violates a rule adopted under Section 481.077, 481.0771, or 481.078.

(b) An offense under this section is a state jail felony, unless it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this section or Section 481.137, in which event the offense is a felony of the third degree.

Added by Acts 1997, 75th Leg., ch. 745, § 32, eff. Jan. 1, 1998.
Amended by Acts 2001, 77th Leg., ch. 251, § 24, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. [282](#), § 8, eff. August 1, 2005.

§ 481.137. OFFENSE: TRANSFER OF PRECURSOR SUBSTANCE FOR UNLAWFUL MANUFACTURE. (a) A person commits an offense if the person sells, transfers, or otherwise furnishes a chemical precursor subject to Section 481.077(a) with the knowledge or intent that the recipient will use the chemical precursor to unlawfully manufacture a controlled substance or controlled substance analogue.

(b) An offense under this section is a felony of the third degree.

Added by Acts 1997, 75th Leg., ch. 745, § 32, eff. Jan. 1, 1998.
Amended by Acts 2001, 77th Leg., ch. 251, § 25, eff. Sept. 1, 2001.

§ 481.138. OFFENSE: UNLAWFUL TRANSFER OR RECEIPT OF CHEMICAL LABORATORY APPARATUS. (a) A person commits an offense if the person sells, transfers, furnishes, or receives a chemical laboratory apparatus subject to Section 481.080(a) and the person:

- (1) does not have a chemical laboratory apparatus transfer permit as required by Section 481.081 at the time of the transaction;

- (2) does not comply with Section 481.080;
- (3) knowingly makes a false statement in a report or record required by Section 481.080 or 481.081; or
- (4) knowingly violates a rule adopted under Section 481.080 or 481.081.

(b) An offense under this section is a state jail felony, unless it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this section, in which event the offense is a felony of the third degree.

Added by Acts 1997, 75th Leg., ch. 745, § 32, eff. Jan. 1, 1998.
Amended by Acts 2001, 77th Leg., ch. 251, § 26, eff. Sept. 1, 2001.

§ 481.139. OFFENSE: TRANSFER OF CHEMICAL LABORATORY APPARATUS FOR UNLAWFUL MANUFACTURE. (a) A person commits an offense if the person sells, transfers, or otherwise furnishes a chemical laboratory apparatus with the knowledge or intent that the recipient will use the apparatus to unlawfully manufacture a controlled substance or controlled substance analogue.

(b) An offense under Subsection (a) is a felony of the third degree.

Added by Acts 1997, 75th Leg., ch. 745, § 32, eff. Jan. 1, 1998.
Amended by Acts 2001, 77th Leg., ch. 251, § 27, eff. Sept. 1, 2001.

§ 481.140. USE OF CHILD IN COMMISSION OF OFFENSE.

(a) If it is shown at the punishment phase of the trial of an offense otherwise punishable as a state jail felony, felony of the third degree, or felony of the second degree under Section 481.112, 481.1121, 481.113, 481.114, 481.120, or 481.122 that the defendant used or attempted to use a child younger than 18 years of age to commit or assist in the commission of the offense, the punishment is increased by one degree, unless the defendant used or threatened to use force against the child or another to gain the child's assistance, in which event the punishment for the offense is a felony of the first degree.

(b) Notwithstanding Article 42.08, Code of Criminal Procedure, if punishment for a defendant is increased under this section, the court may not order the sentence for the offense to run concurrently with any other sentence the court imposes on the defendant.

Added by Acts 2001, 77th Leg., ch. 786, § 1, eff. June 14, 2001.

§ 481.141. MANUFACTURE OR DELIVERY OF CONTROLLED SUBSTANCE CAUSING DEATH OR SERIOUS BODILY INJURY. (a) 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 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 manufactured or delivered by the 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) This section applies to an offense otherwise punishable as a state jail felony, felony of the third degree, or felony of the second degree under Section 481.112, 481.1121, 481.113, 481.114, or 481.122.

(c) Notwithstanding Article 42.08, Code of Criminal Procedure, if punishment for a defendant is increased under this section, the court may not order the sentence for the offense to run concurrently with any other sentence the court imposes on the defendant.

Added by Acts 2003, 78th Leg., ch. 712, § 2, eff. Sept. 1, 2003.

SUBCHAPTER E. FORFEITURE

§ 481.151. DEFINITIONS. In this subchapter:

(1) "Controlled substance property" means a controlled substance, mixture containing a controlled substance, controlled substance analogue, counterfeit controlled substance, drug paraphernalia, chemical precursor, chemical laboratory apparatus, or raw material.

(2) "Controlled substance plant" means a species of plant from which a controlled substance listed in Schedule I or II may be derived.

(3) "Summary destruction" or "summarily destroy" means destruction without the necessity of any court action, a court order, or further proceedings.

(4) "Summary forfeiture" or "summarily forfeit" means forfeiture without the necessity of any court action, a court order, or further proceedings.

Amended by Acts 1991, 72nd Leg., ch. 141, § 1, eff. Sept. 1,

1991; Acts 2001, 77th Leg., ch. 251, § 28, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [152](#), § 1, eff. May 21, 2007.

§ 481.152. SEIZURE, SUMMARY FORFEITURE, AND SUMMARY DESTRUCTION OF CONTROLLED SUBSTANCE PLANTS. (a) Controlled substance plants are subject to seizure and summary forfeiture to the state if:

(1) the plants have been planted, cultivated, or harvested in violation of this chapter;

(2) the plants are wild growths; or

(3) the owners or cultivators of the plants are unknown.

(b) Subsection (a) does not apply to unharvested peyote growing in its natural state.

(c) If a person who occupies or controls land or premises on which the plants are growing fails on the demand of a peace officer to produce an appropriate registration or proof that the person is the holder of the registration, the officer may seize and summarily forfeit the plants.

(d) If a controlled substance plant is seized and forfeited under this section, a court may order the disposition of the plant under Section 481.159, or the department or a peace officer may summarily destroy the property under the rules of the department.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 141, § 1, eff. Sept. 1, 1991.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [152](#), § 2, eff. May 21, 2007.

Acts 2007, 80th Leg., R.S., Ch. [152](#), § 3, eff. May 21, 2007.

§ 481.153. SEIZURE, SUMMARY FORFEITURE, AND SUMMARY DESTRUCTION OF CONTROLLED SUBSTANCE PROPERTY. (a) Controlled substance property that is manufactured, delivered, or possessed in violation of this chapter is subject to seizure and summary forfeiture to the state.

(b) If an item of controlled substance property is seized and forfeited under this section, a court may order the disposition of the property under Section 481.159, or the department or a peace officer may summarily destroy the property under the rules of the

department.

Amended by Acts 1991, 72nd Leg., ch. 141, § 1, eff. Sept. 1, 1991.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [152](#), § 4, eff. May 21, 2007.

Acts 2007, 80th Leg., R.S., Ch. [152](#), § 5, eff. May 21, 2007.