HEALTH AND SAFETY CODE

TITLE 6. FOOD, DRUGS, ALCOHOL, AND HAZARDOUS SUBSTANCES

SUBTITLE C. SUBSTANCE ABUSE REGULATION AND CRIMES

CHAPTER 481. TEXAS CONTROLLED SUBSTANCES ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 481.001. SHORT TITLE. This chapter may be cited as the Texas Controlled Substances Act.

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

Sec. 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 state health services 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 the federal Controlled Substances Act (21 U.S.C. Section 801 et seq.) or 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 Group 1, 1-A, 1-B, 2, 2-A, 3, or 4. The term includes the aggregate weight of any mixture, solution, or other substance containing a controlled substance. The term does not include hemp, as defined by Section 121.001, Agriculture Code, or the tetrahydrocannabinols in hemp.

(6) "Controlled substance analogue" means:

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

(B) a substance specifically designed to produce an effect substantially similar to, or greater than, the effect of a controlled substance in Schedule I or II or Penalty Group 1, 1-A, 1-B, 2, or 2-A.

(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 481.074(b-2) to communicate a practitioner's instructions to a pharmacist in an emergency.

(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;

(B) an ambulatory surgical center licensed under Chapter 243 and approved by the federal government to perform surgery paid by Medicaid on patients admitted for a period of not more than 24 hours; or

(C) a freestanding emergency medical care facility licensed under Chapter 254.

(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;

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

(F) hemp, as that term is defined by Section 121.001, Agriculture Code.

(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:

(A) is administered, dispensed, delivered, or prescribed by a practitioner; or

(B) is intended to be 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 registered nurse or physician assistant to whom a physician has delegated the authority to prescribe or order a drug or device under Section 157.0511, 157.0512, or 157.054, 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 has a current Federal Drug Enforcement Administration registration number.

(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 is used for a Schedule II controlled substance under Section 481.0755 and contains the prescription information required by Section 481.0755(e).

(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 10 milligrams of paper, calculated by rounding the weight down to the nearest whole number, 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 or solid 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.

(54) "Health information exchange" means an organization that:

(A) assists in the transmission or receipt of health-related information among organizations transmitting or receiving the information according to nationally recognized standards and under an express written agreement;

(B) as a primary business function, compiles or organizes health-related information that is designed to be securely transmitted by the organization among physicians, health care providers, or entities within a region, state, community, or hospital system; or

(C) assists in the transmission or receipt of electronic health-related information among physicians, health care providers, or entities within:

(i) a hospital system;

(ii) a physician organization;

(iii) a health care collaborative, as defined by Section 848.001, Insurance Code;

(iv) an accountable care organization participating in the Pioneer Model under the initiative by the Innovation Center of the Centers for Medicare and Medicaid

Services; or

(v) an accountable care organization participating in the Medicare shared savings program under 42 U.S.C. Section 1395jjj.

Text of subdivision as added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1227, eff. April 2, 2015

(55) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

Text of subdivision as added by Acts 2015, 84th Leg., R.S., Ch. 1268 (S.B. 195), Sec. 2

(55) "Board" means the Texas State Board of Pharmacy.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 1100, Sec. 5.02(b), eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 351, Sec. 27, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 789, Sec. 15, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 900, Sec. 2.01, eff. Sept. 1, 1994; Acts 1997, 75th Leg., ch. 745, Sec. 1, 2, eff. Jan. 1, 1998; Acts 1999, 76th Leg., ch. 145, Sec. 1, 5(1), eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 251, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1188, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 88, Sec. 9, eff. May 20, 2003; Acts 2003, 78th Leg., ch. 1099, Sec. 4, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 418 (S.B. 406), Sec. 23, eff. November 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1226 (S.B. 1643), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1227, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 64 (S.B. 172), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 65 (S.B. 173), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 712 (H.B. 1212), Sec. 3, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1268 (S.B. 195), Sec. 2, eff. September 1, 2016.

Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. 1325), Sec. 8, eff. June 10, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1105 (H.B. 2174), Sec. 2, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 584 (S.B. 768), Sec. 1, eff. September 1, 2021.

Acts 2025, 89th Leg., R.S., Ch. 1011 (S.B. 1936), Sec. 1, eff. September 1, 2025.

Sec. 481.003. RULES. (a) The director may adopt rules to administer and enforce this chapter, other than Sections 481.074, 481.075, 481.0755, 481.0756, 481.076, 481.0761, 481.0762, 481.0763, 481.07635, 481.07636, 481.0764, 481.0765, 481.0766, 481.0767, 481.0768, and 481.0769. The board may adopt rules to administer Sections 481.074, 481.075, 481.0755, 481.0756, 481.076, 481.0761, 481.0762, 481.0763, 481.07635, 481.07636, 481.0764, 481.0765, 481.0766, 481.0767, 481.0768, and 481.0769.

(b) The director by rule shall prohibit a person in this state, including a person regulated by the Texas Department of Insurance under the Insurance Code or the other insurance laws of this state, from using a practitioner's Federal Drug Enforcement Administration number for a purpose other than a purpose described by federal law or by this chapter. A person who violates a rule adopted under this subsection commits a Class C misdemeanor.

Added by Acts 1997, 75th Leg., ch. 745, Sec. 3, eff. Jan. 1, 1998. Amended by Acts 1999, 76th Leg., ch. 1266, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1268 (S.B. 195), Sec. 3, eff. June 20, 2015.

Acts 2017, 85th Leg., R.S., Ch. 485 (H.B. 2561), Sec. 1, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1105 (H.B. 2174), Sec. 3, eff.

September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1166 (H.B. 3284), Sec. 5, eff. September 1, 2019.

SUBCHAPTER B. SCHEDULES

Sec. 481.031. NOMENCLATURE. Controlled substances listed in Schedules I through V and Penalty Groups 1 through 4 are included by whatever official, common, usual, chemical, or trade name they may be designated.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 745, Sec. 4, eff. Jan. 1, 1998.

Sec. 481.032. SCHEDULES. (a) The commissioner shall establish and modify the following schedules of controlled substances under this subchapter: Schedule I, Schedule II, Schedule III, Schedule IV, and Schedule V.

(b) A reference to a schedule in this chapter means the most current version of the schedule established or altered by the commissioner under this subchapter and published in the Texas Register on or after January 1, 1998.

Added by Acts 1997, 75th Leg., ch. 745, Sec. 4, eff. Jan. 1, 1998. Amended by Acts 2001, 77th Leg., ch. 251, Sec. 2, eff. Sept. 1, 2001.

Sec. 481.033. EXCLUSION FROM SCHEDULES AND APPLICATION OF ACT. (a) A nonnarcotic substance is excluded from Schedules I through V if the substance may lawfully be sold over the counter without a prescription, under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Section 301 et seq.).

(b) The commissioner may not include in the schedules:

(1) a substance described by Subsection (a); or

(2) distilled spirits, wine, malt beverages, or tobacco.

(c) A compound, mixture, or preparation containing a stimulant substance listed in Schedule II and having a potential for abuse associated with a stimulant effect on the central nervous

system is excepted from the application of this chapter 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, proportions, or concentrations that vitiate the potential for abuse of the substance having a stimulant effect on the central nervous system.

(d) A compound, mixture, or preparation containing a depressant substance listed in Schedule III or IV and having a potential for abuse associated with a depressant effect on the central nervous system is excepted from the application of this chapter 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, proportions, or concentrations that vitiate the potential for abuse of the substance having a depressant effect on the central nervous system.

(e) A nonnarcotic prescription substance is exempted from Schedules I through V and the application of this chapter to the same extent that the substance has been exempted from the application of the Federal Controlled Substances Act, if the substance is listed as an exempt prescription product under 21 C.F.R. Section 1308.32 and its subsequent amendments.

(f) A chemical substance that is intended for laboratory, industrial, educational, or special research purposes and not for general administration to a human being or other animal is exempted from Schedules I through V and the application of this chapter to the same extent that the substance has been exempted from the application of the Federal Controlled Substances Act, if the substance is listed as an exempt chemical preparation under 21 C.F.R. Section 1308.24 and its subsequent amendments.

(g) An anabolic steroid product, which has no significant potential for abuse due to concentration, preparation, mixture, or delivery system, is exempted from Schedules I through V and the application of this chapter to the same extent that the substance has been exempted from the application of the Federal Controlled Substances Act, if the substance is listed as an exempt anabolic

steroid product under 21 C.F.R. Section 1308.34 and its subsequent amendments.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 532, Sec. 1, eff. Sept. 1, 1993. Renumbered from Health & Safety Code Sec. 481.037 and amended by Acts 1997, 75th Leg., ch. 745, Sec. 4, eff. Jan. 1, 1998.

Sec. 481.034. ESTABLISHMENT AND MODIFICATION OF SCHEDULES BY COMMISSIONER. (a) The commissioner shall annually establish the schedules of controlled substances. These annual schedules shall include the complete list of all controlled substances from the previous schedules and modifications in the federal schedules of controlled substances as required by Subsection (g). Any further additions to and deletions from these schedules, any rescheduling of substances and any other modifications made by the commissioner to these schedules of controlled substances shall be made:

(1) in accordance with Section 481.035;

(2) in a manner consistent with this subchapter; and

(3) with approval of the executive commissioner.

(b) Except for alterations in schedules required by Subsection (g), the commissioner may not make an alteration in a schedule unless the commissioner holds a public hearing on the matter in Austin and obtains approval from the executive commissioner.

(c) The commissioner may not:

(1) add a substance to the schedules if the substance has been deleted from the schedules by the legislature;

(2) delete a substance from the schedules if the substance has been added to the schedules by the legislature; or

(3) reschedule a substance if the substance has been placed in a schedule by the legislature.

(d) In making a determination regarding a substance, the commissioner shall consider:

(1) the actual or relative potential for its abuse;

(2) the scientific evidence of its pharmacological effect, if known;

(3) the state of current scientific knowledge regarding the substance;

(4) the history and current pattern of its abuse;

(5) the scope, duration, and significance of its abuse;

(6) the risk to the public health;

(7) the potential of the substance to produce psychological or physiological dependence liability; and

(8) whether the substance is a controlled substance analogue, chemical precursor, or an immediate precursor of a substance controlled under this chapter.

(e) After considering the factors listed in Subsection (d), the commissioner shall make findings with respect to those factors. If the commissioner finds the substance has a potential for abuse, the executive commissioner shall adopt a rule controlling the substance.

(f) Repealed by Acts 2003, 78th Leg., ch. 1099, Sec. 17.

(g) Except as otherwise provided by this subsection, if a substance is designated, rescheduled, or deleted as a controlled substance under federal law and notice of that fact is given to the commissioner, the commissioner similarly shall control the substance under this chapter. After the expiration of a 30-day period beginning on the day after the date of publication in the Federal Register of a final order designating a substance as a controlled substance or rescheduling or deleting a substance, the commissioner similarly shall designate, reschedule, or delete the substance, unless the commissioner objects during the period. If the commissioner objects, the commissioner shall publish the reasons for the objection and give all interested parties an opportunity to be heard. At the conclusion of the hearing, the commissioner shall publish a decision, which is final unless altered by statute. On publication of an objection by the commissioner, control as to that particular substance under this chapter is stayed until the commissioner publishes the commissioner's decision.

(h) Not later than the 10th day after the date on which the commissioner designates, deletes, or reschedules a substance under

Subsection (a), the commissioner shall give written notice of that action to the director and to each state licensing agency having jurisdiction over practitioners.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Renumbered from Health & Safety Code Sec. 481.038 and amended by Acts 1997, 75th Leg., ch. 745, Sec. 4, eff. Jan. 1, 1998; Acts 2003, 78th Leg., ch. 1099, Sec. 5, 17, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1228, eff. April 2, 2015.

Sec. 481.035. FINDINGS. (a) The commissioner shall place a substance in Schedule I if the commissioner finds that the substance:

(1) has a high potential for abuse; and

(2) has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

(b) The commissioner shall place a substance in Schedule II if the commissioner finds that:

(1) the substance has a high potential for abuse;

(2) the substance has currently accepted medical use in treatment in the United States; and

(3) abuse of the substance may lead to severe psychological or physical dependence.

(c) The commissioner shall place a substance in Schedule III if the commissioner finds that:

(1) the substance has a potential for abuse less than that of the substances listed in Schedules I and II;

(2) the substance has currently accepted medical use in treatment in the United States; and

(3) abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

(d) The commissioner shall place a substance in Schedule IV if the commissioner finds that:

(1) the substance has a lower potential for abuse than that of the substances listed in Schedule III;

(2) the substance has currently accepted medical use in treatment in the United States; and

(3) abuse of the substance may lead to a more limited physical or psychological dependence than that of the substances listed in Schedule III.

(e) The commissioner shall place a substance in Schedule V if the commissioner finds that the substance:

(1) has a lower potential for abuse than that of the substances listed in Schedule IV;

(2) has currently accepted medical use in treatment in the United States; and

(3) may lead to a more limited physical or psychological dependence liability than that of the substances listed in Schedule IV.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Renumbered from Health & Safety Code Sec. 481.039 and amended by Acts 1997, 75th Leg., ch. 745, Sec. 4, eff. Jan. 1, 1998.

Sec. 481.0355. EMERGENCY SCHEDULING; LEGISLATIVE REPORT. (a) Except as otherwise provided by Subsection (b) and subject to Subsection (c), the commissioner may emergency schedule a substance as a controlled substance if the commissioner determines the action is necessary to avoid an imminent hazard to the public safety.

(b) The commissioner may not emergency schedule a substance as a controlled substance under this section if:

(1) the substance is already scheduled;

(2) an exemption or approval is in effect for the substance under Section 505, Federal Food, Drug, and Cosmetic Act (21 U.S.C. Section 355); or

(3) the substance is an over-the-counter drug that qualifies for recognition as safe and effective under conditions established by federal regulations of the United States Food and Drug Administration governing over-the-counter drugs.

(c) Before emergency scheduling a substance as a controlled substance under this section, the commissioner shall consult with the Department of Public Safety and may emergency schedule the substance only in accordance with any recommendations provided by

the department.

(d) In determining whether a substance poses an imminent hazard to the public safety, the commissioner shall consider:

(1) the scope, duration, symptoms, or significance of abuse;

(2) the degree of detriment that abuse of the substance may cause;

(3) whether the substance has been temporarily scheduled under federal law; and

(4) whether the substance has been temporarily or permanently scheduled under the law of another state.

(e) If the commissioner emergency schedules a substance as a controlled substance under this section, an emergency exists for purposes of Section 481.036(c) and the action takes effect on the date the schedule is published in the Texas Register.

(f) Except as otherwise provided by Subsection (f-1), an emergency scheduling under this section expires on September 1 of each odd-numbered year for any scheduling that occurs before January 1 of that year.

(f-1) The commissioner may extend the emergency scheduling of a substance under this section not more than once and for a period not to exceed one year by publishing the extension in the Texas Register. If the commissioner extends the emergency scheduling of a substance, an emergency exists for purposes of Section 481.036(c) and the action takes effect on the date the extension is published in the Texas Register.

(g) The commissioner shall post notice about each emergency scheduling of a substance or each extension of an emergency scheduling of a substance under this section on the Internet website of the Department of State Health Services.

(h) Not later than December 1 of each even-numbered year, the commissioner shall submit a report about each emergency scheduling action taken under this section during the preceding two-year period to the governor, the lieutenant governor, the speaker of the house of representatives, and each legislative standing committee with primary jurisdiction over the department and each legislative standing committee with primary jurisdiction

over criminal justice matters.

Added by Acts 2015, 84th Leg., R.S., Ch. 712 (H.B. 1212), Sec. 4, eff. September 1, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 499 (H.B. 2804), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 499 (H.B. 2804), Sec. 2, eff. September 1, 2017.

Sec. 481.036. PUBLICATION OF SCHEDULES. (a) The commissioner shall publish the schedules by filing a certified copy of the schedules with the secretary of state for publication in the Texas Register not later than the fifth working day after the date the commissioner takes action under this subchapter.

(b) Each published schedule must show changes, if any, made in the schedule since its latest publication.

(c) An action by the commissioner that establishes or modifies a schedule under this subchapter may take effect not earlier than the 21st day after the date on which the schedule or modification is published in the Texas Register unless an emergency exists that necessitates earlier action to avoid an imminent hazard to the public safety.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Renumbered from Health & Safety Code Sec. 481.040 and amended by Acts 1997, 75th Leg., ch. 745, Sec. 4, eff. Jan. 1, 1998.

Sec. 481.037. CARISOPRODOL. Schedule IV includes carisoprodol.

Added by Acts 2009, 81st Leg., R.S., Ch. 774 (S.B. 904), Sec. 4, eff. June 19, 2009.

SUBCHAPTER C. REGULATION OF MANUFACTURE, DISTRIBUTION, AND DISPENSATION OF CONTROLLED SUBSTANCES, CHEMICAL PRECURSORS, AND CHEMICAL LABORATORY APPARATUS

Sec. 481.061. FEDERAL REGISTRATION REQUIRED. (a) Except as otherwise provided by this chapter, a person who is not

registered with or exempt from registration with the Federal Drug Enforcement Administration may not manufacture, distribute, prescribe, possess, analyze, or dispense a controlled substance in this state.

(b) A person who is registered with the Federal Drug Enforcement Administration to manufacture, distribute, analyze, dispense, or conduct research with a controlled substance may possess, manufacture, distribute, analyze, dispense, or conduct research with that substance to the extent authorized by the person's registration and in conformity with this chapter.

(c) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1268 , Sec. 25(1), eff. September 1, 2016.

(d) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1268 , Sec. 25(1), eff. September 1, 2016.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 745, Sec. 5, eff. Jan. 1, 1998.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1228 (S.B. 594), Sec. 1, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1268 (S.B. 195), Sec. 4, eff. September 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 1268 (S.B. 195), Sec. 5, eff. September 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 1268 (S.B. 195), Sec. 25(1), eff. September 1, 2016.

Sec. 481.062. EXEMPTIONS. (a) The following persons may possess a controlled substance under this chapter without registering with the Federal Drug Enforcement Administration:

(1) an agent or employee of a manufacturer, distributor, analyzer, or dispenser of the controlled substance who is registered with the Federal Drug Enforcement Administration and acting in the usual course of business or employment;

(2) a common or contract carrier, a warehouseman, or an employee of a carrier or warehouseman whose possession of the controlled substance is in the usual course of business or employment;

(3) an ultimate user or a person in possession of the controlled substance under a lawful order of a practitioner or in lawful possession of the controlled substance if it is listed in Schedule V;

(4) an officer or employee of this state, another state, a political subdivision of this state or another state, or the United States who is lawfully engaged in the enforcement of a law relating to a controlled substance or drug or to a customs law and authorized to possess the controlled substance in the discharge of the person's official duties;

(5) if the substance is tetrahydrocannabinol or one of its derivatives:

(A) a Department of State Health Services official, a medical school researcher, or a research program participant possessing the substance as authorized under Subchapter G; or

(B) a practitioner or an ultimate user possessing the substance as a participant in a federally approved therapeutic research program that the commissioner has reviewed and found, in writing, to contain a medically responsible research protocol; or

(6) a dispensing organization licensed under Chapter 487 that possesses low-THC cannabis.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1268 , Sec. 25(1), eff. September 1, 2016.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 745, Sec. 6, eff. Jan. 1, 1998; Acts 2001, 77th Leg., ch. 251, Sec. 3, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(79), eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1229, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 301 (S.B. 339), Sec. 2, eff. June 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1268 (S.B. 195), Sec. 6, eff. September 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 1268 (S.B. 195), Sec. 25(1), eff. September 1, 2016.

Sec. 481.0621. EXCEPTIONS. (a) This subchapter does not apply to an educational or research program of a school district or a public or private institution of higher education. This subchapter does not apply to a manufacturer, wholesaler, retailer, or other person who sells, transfers, or furnishes materials covered by this subchapter to those educational or research programs.

(b) The department and the Texas Higher Education Coordinating Board shall adopt a memorandum of understanding that establishes the responsibilities of the board, the department, and the public or private institutions of higher education in implementing and maintaining a program for reporting information concerning controlled substances, controlled substance analogues, chemical precursors, and chemical laboratory apparatus used in educational or research activities of institutions of higher education.

(c) The department and the Texas Education Agency shall adopt a memorandum of understanding that establishes the responsibilities of the agency, the department, and school districts in implementing and maintaining a program for reporting information concerning controlled substances, controlled substance analogues, chemical precursors, and chemical laboratory apparatus used in educational or research activities of those schools and school districts.

Added by Acts 1989, 71st Leg., ch. 1100, Sec. 5.02(e), eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 6.45, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 745, Sec. 7, eff; Jan. 1, 1998.

Sec. 481.065. AUTHORIZATION FOR CERTAIN ACTIVITIES. (a) The director may authorize the possession, distribution, planting, and cultivation of controlled substances by a person engaged in research, training animals to detect controlled substances, or designing or calibrating devices to detect controlled substances. A person who obtains an authorization under this subsection does not commit an offense involving the possession or distribution of

controlled substances to the extent that the possession or distribution is authorized.

(b) A person may conduct research with or analyze substances listed in Schedule I in this state only if the person is a practitioner registered under federal law to conduct research with or analyze those substances and the person provides the director with evidence of federal registration.

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

Sec. 481.067. RECORDS. (a) A person who is registered with the Federal Drug Enforcement Administration to manufacture, distribute, analyze, or dispense a controlled substance shall keep records and maintain inventories in compliance with recordkeeping and inventory requirements of federal law and with additional rules the board or director adopts.

(b) The pharmacist-in-charge of a pharmacy shall maintain the records and inventories required by this section.

(c) A record required by this section must be made at the time of the transaction that is the basis of the record. A record or inventory required by this section must be kept or maintained for at least two years after the date the record or inventory is made.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 251, Sec. 7, eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1268 (S.B. 195), Sec. 7, eff. September 1, 2016.

Sec. 481.068. CONFIDENTIALITY. (a) The director may authorize a person engaged in research on the use and effects of a controlled substance to withhold the names and other identifying characteristics of individuals who are the subjects of the research. A person who obtains the authorization may not be compelled in a civil, criminal, administrative, legislative, or other proceeding to identify the individuals who are the subjects of the research for which the authorization is obtained.

(b) Except as provided by Sections 481.074 and 481.075, a practitioner engaged in authorized medical practice or research may

not be required to furnish the name or identity of a patient or research subject to the department, the Department of State Health Services, or any other agency, public official, or law enforcement officer. A practitioner may not be compelled in a state or local civil, criminal, administrative, legislative, or other proceeding to furnish the name or identity of an individual that the practitioner is obligated to keep confidential.

(c) The director may not provide to a federal, state, or local law enforcement agency the name or identity of a patient or research subject whose identity could not be obtained under Subsection (b).

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 251, Sec. 8, eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1230, eff. April 2, 2015.

Sec. 481.070. ADMINISTERING OR DISPENSING SCHEDULE I CONTROLLED SUBSTANCE. Except as permitted by this chapter, a person may not administer or dispense a controlled substance listed in Schedule I.

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

Sec. 481.071. MEDICAL PURPOSE REQUIRED BEFORE PRESCRIBING, DISPENSING, DELIVERING, OR ADMINISTERING CONTROLLED SUBSTANCE. (a) A practitioner defined by Section 481.002(39)(A) may not prescribe, dispense, deliver, or administer a controlled substance or cause a controlled substance to be administered under the practitioner's direction and supervision except for a valid medical purpose and in the course of medical practice.

(b) An anabolic steroid or human growth hormone listed in Schedule III may only be:

(1) dispensed, prescribed, delivered, or administered by a practitioner, as defined by Section 481.002(39)(A), for a valid medical purpose and in the course of professional practice; or

(2) dispensed or delivered by a pharmacist according

to a prescription issued by a practitioner, as defined by Section 481.002(39)(A) or (C), for a valid medical purpose and in the course of professional practice.

(c) For the purposes of Subsection (b), bodybuilding, muscle enhancement, or increasing muscle bulk or strength through the use of an anabolic steroid or human growth hormone listed in Schedule III by a person who is in good health is not a valid medical purpose.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 1100, Sec. 5.03(b), eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 745, Sec. 11, eff. Jan. 1, 1998.

Sec. 481.072. MEDICAL PURPOSE REQUIRED BEFORE DISTRIBUTING OR DISPENSING SCHEDULE V CONTROLLED SUBSTANCE. A person may not distribute or dispense a controlled substance listed in Schedule V except for a valid medical purpose.

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

Sec. 481.074. PRESCRIPTIONS. (a) A pharmacist may not:

(1) dispense or deliver a controlled substance or cause a controlled substance to be dispensed or delivered under the pharmacist's direction or supervision except under a valid prescription and in the course of professional practice;

(2) dispense a controlled substance if the pharmacist knows or should have known that the prescription was issued without a valid patient-practitioner relationship;

(3) fill a prescription that is not prepared or issued as prescribed by this chapter;

(4) permit or allow a person who is not a licensed pharmacist or pharmacist intern to dispense, distribute, or in any other manner deliver a controlled substance even if under the supervision of a pharmacist, except that after the pharmacist or pharmacist intern has fulfilled his professional and legal responsibilities, a nonpharmacist may complete the actual cash or credit transaction and delivery; or

(5) permit the delivery of a controlled substance to any person not known to the pharmacist, the pharmacist intern, or

the person authorized by the pharmacist to deliver the controlled substance without first requiring identification of the person taking possession of the controlled substance, except as provided by Subsection (n).

(b) Except in an emergency as defined by board rule under Subsection (b-1) or as otherwise provided by Section 481.075(j) or (m) or 481.0755, a person may not dispense or administer a controlled substance without an electronic prescription that meets the requirements of and is completed by the practitioner in accordance with Section 481.075.

(b-1) In an emergency as defined by board rule, a person may dispense or administer a controlled substance on the oral or telephonically communicated prescription of a practitioner. The person who administers or dispenses the substance shall:

(1) if the person is a prescribing practitioner or a pharmacist, promptly comply with Subsection (c); or

(2) if the person is not a prescribing practitioner or a pharmacist, promptly write the oral or telephonically communicated prescription and include in the written record of the prescription the name, address, and Federal Drug Enforcement Administration number issued for prescribing a controlled substance in this state of the prescribing practitioner, all information required to be provided by a practitioner under Section 481.075(e)(1), and all information required to be provided by a dispensing pharmacist under Section 481.075(e)(2).

(b-2) In an emergency described by Subsection (b-1), an agent designated in writing by a practitioner defined by Section 481.002(39)(A) may communicate a prescription by telephone. A practitioner who designates a different agent shall designate that agent in writing and maintain the designation in the same manner in which the practitioner initially designated an agent under this subsection. On the request of a pharmacist, a practitioner shall furnish a copy of the written designation. This subsection does not relieve a practitioner or the practitioner's designated agent from the requirement of Subchapter A, Chapter 562, Occupations Code. A practitioner is personally responsible for the actions of the designated agent in communicating a prescription to a pharmacist.

(c) Not later than the seventh day after the date a prescribing practitioner authorizes an emergency oral or telephonically communicated prescription, the prescribing practitioner shall cause an electronic prescription, completed in the manner required by Section 481.075, to be delivered to the dispensing pharmacist at the pharmacy where the prescription was dispensed. On receipt of the electronic prescription, the pharmacist shall annotate the electronic prescription record with the original authorization and date of the emergency oral or telephonically communicated prescription.

(d) Except as specified in Subsections (e) and (f), the board, by rule and in consultation with the Texas Medical Board, shall establish the period after the date on which the prescription is issued that a person may fill a prescription for a controlled substance listed in Schedule II. A person may not refill a prescription for a substance listed in Schedule II.

(d-1) Notwithstanding Subsection (d), a prescribing practitioner may issue multiple prescriptions authorizing the patient to receive a total of up to a 90-day supply of a Schedule II controlled substance if:

(1) each separate prescription is issued for a legitimate medical purpose by a prescribing practitioner acting in the usual course of professional practice;

(2) the prescribing practitioner provides instructions on each prescription to be filled at a later date indicating the earliest date on which a pharmacy may fill each prescription;

(3) the prescribing practitioner concludes that providing the patient with multiple prescriptions in this manner does not create an undue risk of diversion or abuse; and

(4) the issuance of multiple prescriptions complies with other applicable state and federal laws.

(e) The partial filling of a prescription for a controlled substance listed in Schedule II is permissible in accordance with applicable federal law.

(f) A prescription for a Schedule II controlled substance for a patient in a long-term care facility (LTCF) or for a hospice

patient with a medical diagnosis documenting a terminal illness may be filled in partial quantities to include individual dosage units. If there is any question about whether a hospice patient may be classified as having a terminal illness, the pharmacist must contact the practitioner before partially filling the prescription. Both the pharmacist and the practitioner have a corresponding responsibility to assure that the controlled substance is for a terminally ill hospice patient. The pharmacist must record the prescription in the electronic prescription record and must indicate in the electronic prescription record whether the patient is a "terminally ill hospice patient" or an "LTCF patient." A prescription that is partially filled and does not contain the notation "terminally ill hospice patient" or "LTCF patient" is considered to have been filled in violation of this chapter. For each partial filling, the dispensing pharmacist shall record in the electronic prescription record the date of the partial filling, the quantity dispensed, the remaining quantity authorized to be dispensed, and the identification of the dispensing pharmacist. Before any subsequent partial filling, the pharmacist must determine that the additional partial filling is necessary. The total quantity of Schedule II controlled substances dispensed in all partial fillings may not exceed the total quantity prescribed. Schedule II prescriptions for patients in a long-term care facility or hospice patients with a medical diagnosis documenting a terminal illness are valid for a period not to exceed 60 days following the issue date unless sooner terminated by discontinuance of the medication.

(g) A person may not dispense a controlled substance in Schedule III or IV that is a prescription drug under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Section 301 et seq.) without a prescription of a practitioner defined by Section 481.002(39)(A) or (D), except that the practitioner may dispense the substance directly to an ultimate user. A prescription for a controlled substance listed in Schedule III or IV may not be filled or refilled later than six months after the date on which the prescription is issued and may not be refilled more than five times, unless the prescription is renewed by the practitioner. A prescription under

this subsection must comply with other applicable state and federal laws.

(h) A pharmacist may dispense a controlled substance listed in Schedule III, IV, or V under a prescription issued by a practitioner defined by Section 481.002(39)(C) only if the pharmacist determines that the prescription was issued for a valid medical purpose and in the course of professional practice. A prescription described by this subsection may not be filled or refilled later than six months after the date the prescription is issued and may not be refilled more than five times, unless the prescription is renewed by the practitioner.

(i) A person may not dispense a controlled substance listed in Schedule V and containing 200 milligrams or less of codeine, or any of its salts, per 100 milliliters or per 100 grams, or containing 100 milligrams or less of dihydrocodeine, or any of its salts, per 100 milliliters or per 100 grams, without the prescription of a practitioner defined by Section 481.002(39)(A), except that a practitioner may dispense the substance directly to an ultimate user. A prescription issued under this subsection may not be filled or refilled later than six months after the date the prescription is issued and may not be refilled more than five times, unless the prescription is renewed by the practitioner.

(j) A practitioner or institutional practitioner may not allow a patient, on the patient's release from the hospital, to possess a controlled substance prescribed by the practitioner unless:

(1) the substance was dispensed under a medication order while the patient was admitted to the hospital;

(2) the substance is in a properly labeled container; and

(3) the patient possesses not more than a seven-day supply of the substance.

(k) A prescription for a controlled substance must show:

(1) the quantity of the substance prescribed:

(A) numerically, if the prescription is electronic; or

(B) if the prescription is communicated orally or

telephonically, as transcribed by the receiving pharmacist;

(2) the date of issue;

(2-a) if the prescription is issued for a Schedule II controlled substance to be filled at a later date under Subsection (d-1), the earliest date on which a pharmacy may fill the prescription;

(3) the name, address, and date of birth or age 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;

(4) the name and strength of the controlled substance prescribed;

(5) the directions for use of the controlled substance;

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

(7) the name, address, Federal Drug Enforcement Administration number, and telephone number of the practitioner at the practitioner's usual place of business.

(l) A pharmacist may exercise his professional judgment in refilling a prescription for a controlled substance in Schedule III, IV, or V without the authorization of the prescribing practitioner provided:

(1) failure to refill the prescription might result in an interruption of a therapeutic regimen or create patient suffering;

(2) either:

(A) a natural or manmade disaster has occurred which prohibits the pharmacist from being able to contact the practitioner; or

(B) the pharmacist is unable to contact the practitioner after reasonable effort;

(3) the quantity of prescription drug dispensed does not exceed a 72-hour supply;

(4) the pharmacist informs the patient or the patient's agent at the time of dispensing that the refill is being

provided without such authorization and that authorization of the practitioner is required for future refills; and

(5) the pharmacist informs the practitioner of the emergency refill at the earliest reasonable time.

(l-1) Notwithstanding Subsection (l), in the event of a natural or manmade disaster, a pharmacist may dispense not more than a 30-day supply of a prescription drug, other than a controlled substance listed in Schedule II, without the authorization of the prescribing practitioner if:

(1) failure to refill the prescription might result in an interruption of a therapeutic regimen or create patient suffering;

(2) the natural or manmade disaster prohibits the pharmacist from being able to contact the practitioner;

(3) the governor has declared a state of disaster under Chapter 418, Government Code; and

(4) the Texas State Board of Pharmacy, through its executive director, has notified pharmacies in this state that pharmacists may dispense up to a 30-day supply of a prescription drug.

(l-2) The prescribing practitioner is not liable for an act or omission by a pharmacist in dispensing a prescription drug under Subsection (l-1).

(m) A pharmacist may permit the delivery of a controlled substance by an authorized delivery person, by a person known to the pharmacist, a pharmacist intern, or the authorized delivery person, or by mail to the person or address of the person authorized by the prescription to receive the controlled substance. If a pharmacist permits delivery of a controlled substance under this subsection, the pharmacist shall retain in the records of the pharmacy for a period of not less than two years:

(1) the name of the authorized delivery person, if delivery is made by that person;

(2) the name of the person known to the pharmacist, a pharmacist intern, or the authorized delivery person if delivery is made by that person; or

(3) the mailing address to which delivery is made, if

delivery is made by mail.

(n) A pharmacist may permit the delivery of a controlled substance to a person not known to the pharmacist, a pharmacist intern, or the authorized delivery person without first requiring the identification of the person to whom the controlled substance is delivered if the pharmacist determines that an emergency exists and that the controlled substance is needed for the immediate well-being of the patient for whom the controlled substance is prescribed. If a pharmacist permits delivery of a controlled substance under this subsection, the pharmacist shall retain in the records of the pharmacy for a period of not less than two years all information relevant to the delivery known to the pharmacist, including the name, address, and date of birth or age of the person to whom the controlled substance is delivered.

(o) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1105 (H.B. 2174), Sec. 16, eff. September 1, 2019.

(p) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1105 (H.B. 2174), Sec. 16, eff. September 1, 2019.

(q) Each dispensing pharmacist shall send all required information to the board by electronic transfer or another form approved by the board not later than the next business day after the date the prescription is completely filled.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 1100, Sec. 5.02(h), eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 615, Sec. 10, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 761, Sec. 6, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 351, Sec. 28, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 789, Sec. 16, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 745, Sec. 12, 13, eff. Jan. 1, 1998; Acts 1999, 76th Leg., ch. 145, Sec. 2, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 251, Sec. 10, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1254, Sec. 10, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 349 (S.B. 1188), Sec. 21(a), eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1345 (S.B. 410), Sec. 44(a), eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 535 (S.B. 994), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 567 (S.B. 1658), Sec. 2, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1391 (S.B. 1879), Sec. 2, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1391 (S.B. 1879), Sec. 2, eff. September 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1391 (S.B. 1879), Sec. 2.

Acts 2009, 81st Leg., R.S., Ch. 774 (S.B. 904), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 12.007, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1228 (S.B. 594), Sec. 2, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1342 (S.B. 1273), Sec. 2, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1268 (S.B. 195), Sec. 9, eff. September 1, 2016.

Acts 2017, 85th Leg., R.S., Ch. 485 (H.B. 2561), Sec. 2, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1105 (H.B. 2174), Sec. 4, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1105 (H.B. 2174), Sec. 16, eff. September 1, 2019.

Sec. 481.075. SCHEDULE II PRESCRIPTIONS. (a) A practitioner who prescribes a controlled substance listed in Schedule II shall, except as provided by Section 481.074(b-1) or 481.0755 or a rule adopted under Section 481.0761, record the prescription in an electronic prescription that includes the information required by this section.

(b) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1105 (H.B. 2174), Sec. 16, eff. September 1, 2019.

(c) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1105 (H.B. 2174), Sec. 16, eff. September 1, 2019.

(d) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1105 (H.B.

2174), Sec. 16, eff. September 1, 2019.

(e) Each prescription used to prescribe a Schedule II controlled substance must contain:

(1) information provided by the prescribing practitioner, including:

(A) the date the prescription is issued;

(B) the controlled substance prescribed;

(C) the quantity of controlled substance prescribed, shown numerically;

(D) the intended use of the controlled substance, or the diagnosis for which the controlled substance is prescribed, and the instructions for use of the substance;

(E) the practitioner's name, address, and Federal Drug Enforcement Administration number issued for prescribing a controlled substance in this state;

(F) the name, address, and date of birth or age of the person for whom the controlled substance is prescribed; and

(G) if the prescription is issued to be filled at a later date under Section 481.074(d-1), the earliest date on which a pharmacy may fill the prescription;

(2) information provided by the dispensing pharmacist, including the date the prescription is filled; and

(3) the prescribing practitioner's electronic signature or other secure method of validation authorized by federal law.

(f) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1105 (H.B. 2174), Sec. 16, eff. September 1, 2019.

(g) Except for an emergency oral or telephonically communicated prescription described by Section 481.074(b-1), the prescribing practitioner shall:

(1) record or direct a designated agent to record in the electronic prescription each item of information required to be provided by the prescribing practitioner under Subsection (e)(1), unless the practitioner determines that:

(A) under rule adopted by the board for this purpose, it is unnecessary for the practitioner or the practitioner's agent to provide the patient identification number;

or

(B) it is not in the best interest of the patient for the practitioner or practitioner's agent to provide information regarding the intended use of the controlled substance or the diagnosis for which it is prescribed; and

(2) electronically sign or validate the electronic prescription as authorized by federal law and transmit the prescription to the dispensing pharmacy.

(h) In the case of an emergency oral or telephonically communicated prescription described by Section 481.074(b-1), the prescribing practitioner shall give the dispensing pharmacy the information needed to complete the electronic prescription record.

(i) Each dispensing pharmacist shall:

(1) note in the electronic prescription record each item of information given orally to the dispensing pharmacy under Subsection (h) and the date the prescription is filled and appropriately record the identity of the dispensing pharmacist in the electronic prescription record;

(2) retain with the records of the pharmacy for at least two years:

(A) the electronic prescription record; and

(B) the name or other patient identification required by Section 481.074(m) or (n);

(3) send all required information, including any information required to complete an electronic prescription record, to the board by electronic transfer or another form approved by the board not later than the next business day after the date the prescription is completely filled; and

(4) if the pharmacy does not dispense any controlled substance prescriptions during a period of seven consecutive days, send a report to the board indicating that the pharmacy did not dispense any controlled substance prescriptions during that period, unless the pharmacy has obtained a waiver or permission to delay reporting to the board.

(j) A medication order written for a patient who is admitted to a hospital at the time the medication order is written and filled is not required to be recorded in an electronic prescription record

that meets the requirements of this section.

(k) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1105 (H.B. 2174), Sec. 16, eff. September 1, 2019.

(l) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1105 (H.B. 2174), Sec. 16, eff. September 1, 2019.

(m) A pharmacy in this state may fill a prescription for a controlled substance listed in Schedule II issued by a practitioner in another state if:

(1) a share of the pharmacy's business involves the dispensing and delivery or mailing of controlled substances;

(2) the prescription is issued by a prescribing practitioner in the other state in the ordinary course of practice; and

(3) the prescription is filled in compliance with a written plan providing the manner in which the pharmacy may fill a Schedule II prescription issued by a practitioner in another state that:

(A) is submitted by the pharmacy to the board; and

(B) is approved by the board.

(n) A person dispensing a Schedule II controlled substance under a prescription shall provide written notice, as defined by board rule adopted under Subsection (o), on the safe disposal of controlled substance prescription drugs, unless:

(1) the Schedule II controlled substance prescription drug is dispensed at a pharmacy or other location that:

(A) is authorized to take back those drugs for safe disposal; and

(B) regularly accepts those drugs for safe disposal; or

(2) the dispenser provides to the person to whom the Schedule II controlled substance prescription drug is dispensed, at the time of dispensation and at no cost to the person:

(A) a mail-in pouch for surrendering unused controlled substance prescription drugs; or

(B) chemicals to render any unused drugs unusable or non-retrievable.

(o) The board shall adopt rules to prescribe the form of the written notice on the safe disposal of controlled substance prescription drugs required under Subsection (n). The notice must include information on locations at which Schedule II controlled substance prescription drugs are accepted for safe disposal. The notice, in lieu of listing those locations, may provide the address of an Internet website specified by the board that provides a searchable database of locations at which Schedule II controlled substance prescription drugs are accepted for safe disposal.

(p) The board may take disciplinary action against a person who fails to comply with Subsection (n).

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 1100, Sec. 5.02(i), eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 789, Sec. 17, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 745, Sec. 14, eff. Jan. 1, 1998; Acts 1999, 76th Leg., ch. 145, Sec. 3, 5(2), eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 251, Sec. 11, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 774 (S.B. 904), Sec. 2, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1228 (S.B. 594), Sec. 3, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1342 (S.B. 1273), Sec. 3, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1268 (S.B. 195), Sec. 10, eff. September 1, 2016.

Acts 2017, 85th Leg., R.S., Ch. 485 (H.B. 2561), Sec. 3, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 798 (H.B. 2088), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 965 (S.B. 683), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1105 (H.B. 2174), Sec. 5, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1105 (H.B. 2174), Sec. 6, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1105 (H.B. 2174), Sec. 16,

eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1144 (H.B. 2847), Sec. 4.001, eff. September 1, 2019.

Sec. 481.0755. WRITTEN, ORAL, AND TELEPHONICALLY COMMUNICATED PRESCRIPTIONS. (a) Notwithstanding Sections 481.074 and 481.075, a prescription for a controlled substance is not required to be issued electronically and may be issued in writing if the prescription is issued:

(1) by a veterinarian;

(2) in circumstances in which electronic prescribing is not available due to temporary technological or electronic failure, as prescribed by board rule;

(3) by a practitioner to be dispensed by a pharmacy located outside this state, as prescribed by board rule;

(4) when the prescriber and dispenser are in the same location or under the same license;

(5) in circumstances in which necessary elements are not supported by the most recently implemented national data standard that facilitates electronic prescribing;

(6) for a drug for which the United States Food and Drug Administration requires additional information in the prescription that is not possible with electronic prescribing;

(7) for a non-patient-specific prescription pursuant to a standing order, approved protocol for drug therapy, collaborative drug management, or comprehensive medication management, in response to a public health emergency or in other circumstances in which the practitioner may issue a non-patient-specific prescription;

(8) for a drug under a research protocol;

(9) by a practitioner who has received a waiver under Section 481.0756 from the requirement to use electronic prescribing;

(10) under circumstances in which the practitioner has the present ability to submit an electronic prescription but reasonably determines that it would be impractical for the patient to obtain the drugs prescribed under the electronic prescription in

a timely manner and that a delay would adversely impact the patient's medical condition; or

(11) before January 1, 2021.

(b) A dispensing pharmacist who receives a controlled substance prescription in a manner other than electronically is not required to verify that the prescription is exempt from the requirement that it be submitted electronically. The pharmacist may dispense a controlled substance pursuant to an otherwise valid written, oral, or telephonically communicated prescription consistent with the requirements of this subchapter.

(c) Except in an emergency, a practitioner must use a written prescription to submit a prescription described by Subsection (a). In an emergency, the practitioner may submit an oral or telephonically communicated prescription as authorized under Section 481.074(b-1).

(d) A written prescription for a controlled substance other than a Schedule II controlled substance must include the information required under Section 481.074(k) and the signature of the prescribing practitioner.

(e) A written prescription for a Schedule II controlled substance must be on an official prescription form and include the information required for an electronic prescription under Section 481.075(e), the signature of the practitioner, and the signature of the dispensing pharmacist after the prescription is filled.

(f) The board by rule shall authorize a practitioner to determine whether it is necessary to obtain a particular patient identification number and to provide that number on the official prescription form.

(g) On request of a practitioner, the board shall issue official prescription forms to the practitioner for a fee covering the actual cost of printing, processing, and mailing the forms. Before mailing or otherwise delivering prescription forms to a practitioner, the board shall print on each form the number of the form and any other information the board determines is necessary.

(h) Each official prescription form must be sequentially numbered.

(i) A person may not obtain an official prescription form unless the person is a practitioner as defined by Section 481.002(39)(A) or an institutional practitioner.

(j) Not more than one Schedule II prescription may be recorded on an official prescription form.

(k) Not later than the 30th day after the date a practitioner's Federal Drug Enforcement Administration number or license to practice has been denied, suspended, canceled, surrendered, or revoked, the practitioner shall return to the board all official prescription forms in the practitioner's possession that have not been used for prescriptions.

(l) Each prescribing practitioner:

(1) may use an official prescription form only to submit a prescription described by Subsection (a);

(2) shall date or sign an official prescription form only on the date the prescription is issued; and

(3) shall take reasonable precautionary measures to ensure that an official prescription form issued to the practitioner is not used by another person to violate this subchapter or a rule adopted under this subchapter.

(m) In the case of an emergency oral or telephonically communicated prescription described by Section 481.074(b-1), the prescribing practitioner shall give the dispensing pharmacy the information needed to complete the official prescription form if the pharmacy is not required to use the electronic prescription record.

(n) Each dispensing pharmacist receiving an oral or telephonically communicated prescription under Subsection (m) shall:

(1) fill in on the official prescription form each item of information given orally to the dispensing pharmacy under Subsection (m) and the date the prescription is filled and fill in the dispensing pharmacist's signature;

(2) retain with the records of the pharmacy for at least two years:

(A) the official prescription form; and

(B) the name or other patient identification

required by Section 481.074(m) or (n); and

(3) send all required information, including any information required to complete an official prescription form, to the board by electronic transfer or another form approved by the board not later than the next business day after the date the prescription is completely filled.

Added by Acts 2019, 86th Leg., R.S., Ch. 1105 (H.B. 2174), Sec. 7, eff. September 1, 2019.

Sec. 481.0756. WAIVERS FROM ELECTRONIC PRESCRIBING. (a) The appropriate regulatory agency that issued the license, certification, or registration to a prescriber is authorized to grant a prescriber a waiver from the electronic prescribing requirement under the provisions of this section.

(b) The board shall convene an interagency workgroup that includes representatives of each regulatory agency that issues a license, certification, or registration to a prescriber.

(c) The work group described by Subsection (b) shall establish recommendations and standards for circumstances in which a waiver from the electronic prescribing requirement is appropriate and a process under which a prescriber may request and receive a waiver.

(d) The board shall adopt rules establishing the eligibility for a waiver, including:

(1) economic hardship;

(2) technological limitations not reasonably within the control of the prescriber; or

(3) other exceptional circumstances demonstrated by the prescriber.

(e) Each regulatory agency that issues a license, certification, or registration to a prescriber shall adopt rules for the granting of waivers consistent with the board rules adopted under Subsection (d).

(f) A waiver may be issued to a prescriber for a period of one year. A prescriber may reapply for a subsequent waiver not earlier than the 30th day before the date the waiver expires if the circumstances that necessitated the waiver continue.

Added by Acts 2019, 86th Leg., R.S., Ch. 1105 (H.B. 2174), Sec. 7, eff. September 1, 2019.

Sec. 481.076. OFFICIAL PRESCRIPTION INFORMATION; DUTIES OF TEXAS STATE BOARD OF PHARMACY. (a) The board may not permit any person to have access to information submitted to the board under Section 481.074(q) or 481.075 except:

(1) the board, the Texas Medical Board, the Texas Department of Licensing and Regulation, with respect to the regulation of podiatrists, the State Board of Dental Examiners, the State Board of Veterinary Medical Examiners, the Texas Board of Nursing, or the Texas Optometry Board for the purpose of:

(A) investigating a specific license holder; or

(B) monitoring for potentially harmful prescribing or dispensing patterns or practices under Section 481.0762;

(2) an authorized employee of the board engaged in the administration, investigation, or enforcement of this chapter or another law governing illicit drugs in this state or another state;

(3) the department or other law enforcement or prosecutorial official engaged in the administration, investigation, or enforcement of this chapter or another law governing illicit drugs in this state or another state, if the board is provided a warrant, subpoena, or other court order compelling the disclosure;

(4) a medical examiner conducting an investigation;

(5) provided that accessing the information is authorized under the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191) and regulations adopted under that Act:

(A) a pharmacist or a pharmacist-intern, pharmacy technician, or pharmacy technician trainee, as defined by Section 551.003, Occupations Code, acting at the direction of a pharmacist, who is inquiring about a recent Schedule II, III, IV, or V prescription history of a particular patient of the pharmacist; or

(B) a practitioner who:

(i) is a physician, dentist, veterinarian, podiatrist, optometrist, or advanced practice nurse or is a physician assistant described by Section 481.002(39)(D) or an employee or other agent of a practitioner acting at the direction of a practitioner; and

(ii) is inquiring about a recent Schedule II, III, IV, or V prescription history of a particular patient of the practitioner;

(6) a pharmacist or practitioner who is inquiring about the person's own dispensing or prescribing activity or a practitioner who is inquiring about the prescribing activity of an individual to whom the practitioner has delegated prescribing authority;

(7) one or more states or an association of states with which the board has an interoperability agreement, as provided by Subsection (j);

(8) a health care facility certified by the federal Centers for Medicare and Medicaid Services; or

(9) the patient, the patient's parent or legal guardian, if the patient is a minor, or the patient's legal guardian, if the patient is an incapacitated person, as defined by Section 1002.017(2), Estates Code, inquiring about the patient's prescription record, including persons who have accessed that record.

(a-1) A person authorized to receive information under Subsection (a)(4), (5), or (6) may access that information through a health information exchange, subject to proper security measures to ensure against disclosure to unauthorized persons.

(a-2) A person authorized to receive information under Subsection (a)(5) may include that information in any form in the medical or pharmacy record of the patient who is the subject of the information. Any information included in a patient's medical or pharmacy record under this subsection is subject to any applicable state or federal confidentiality or privacy laws.

(a-3) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1166 (H.B. 3284), Sec. 10, eff. September 1, 2019.

(a-4) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1166 (H.B.

3284), Sec. 10, eff. September 1, 2019.

(a-5) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1166 (H.B. 3284), Sec. 10, eff. September 1, 2019.

(a-6) A patient, the patient's parent or legal guardian, if the patient is a minor, or the patient's legal guardian, if the patient is an incapacitated person, as defined by Section 1002.017(2), Estates Code, is entitled to a copy of the patient's prescription record as provided by Subsection (a)(9), including a list of persons who have accessed that record, if a completed patient data request form and any supporting documentation required by the board is submitted to the board. The board may charge a reasonable fee for providing the copy. The board shall adopt rules to implement this subsection, including rules prescribing the patient data request form, listing the documentation required for receiving a copy of the prescription record, and setting the fee.

(b) This section does not prohibit the board from creating, using, or disclosing statistical data about information submitted to the board under this section if the board removes any information reasonably likely to reveal the identity of each patient, practitioner, or other person who is a subject of the information.

(c) The board by rule shall design and implement a system for submission of information to the board by electronic or other means and for retrieval of information submitted to the board under this section and Sections 481.074 and 481.075. The board shall use automated information security techniques and devices to preclude improper access to the information. The board shall submit the system design to the director and the Texas Medical Board for review and comment a reasonable time before implementation of the system and shall comply with the comments of those agencies unless it is unreasonable to do so.

(d) Information submitted to the board under this section may be used only for:

(1) the administration, investigation, or enforcement of this chapter or another law governing illicit drugs in this state or another state;

(2) investigatory, evidentiary, or monitoring purposes in connection with the functions of an agency listed in

Subsection (a)(1);

(3) the prescribing and dispensing of controlled substances by a person listed in Subsection (a)(5); or

(4) dissemination by the board to the public in the form of a statistical tabulation or report if all information reasonably likely to reveal the identity of each patient, practitioner, or other person who is a subject of the information has been removed.

(e) The board shall remove from the information retrieval system, destroy, and make irretrievable the record of the identity of a patient submitted under this section to the board not later than the end of the 36th calendar month after the month in which the identity is entered into the system. However, the board may retain a patient identity that is necessary for use in a specific ongoing investigation conducted in accordance with this section until the 30th day after the end of the month in which the necessity for retention of the identity ends.

(f) If the board accesses information under Subsection (a)(2) relating to a person licensed or regulated by an agency listed in Subsection (a)(1), the board shall notify and cooperate with that agency regarding the disposition of the matter before taking action against the person, unless the board determines that notification is reasonably likely to interfere with an administrative or criminal investigation or prosecution.

(g) If the board provides access to information under Subsection (a)(3) relating to a person licensed or regulated by an agency listed in Subsection (a)(1), the board shall notify that agency of the disclosure of the information not later than the 10th working day after the date the information is disclosed.

(h) If the board withholds notification to an agency under Subsection (f), the board shall notify the agency of the disclosure of the information and the reason for withholding notification when the board determines that notification is no longer likely to interfere with an administrative or criminal investigation or prosecution.

(i) Information submitted to the board under Section 481.074(q) or 481.075 is confidential and remains confidential

regardless of whether the board permits access to the information under this section.

(j) The board may enter into an interoperability agreement with one or more states or an association of states authorizing the board to access prescription monitoring information maintained or collected by the other state or states or the association, including information maintained on a central database such as the National Association of Boards of Pharmacy Prescription Monitoring Program InterConnect. Pursuant to an interoperability agreement, the board may authorize the prescription monitoring program of one or more states or an association of states to access information submitted to the board under Sections 481.074(q) and 481.075, including by submitting or sharing information through a central database such as the National Association of Boards of Pharmacy Prescription Monitoring Program InterConnect.

(k) A person authorized to access information under Subsection (a)(4) or (5) who is registered with the board for electronic access to the information is entitled to directly access the information available from other states pursuant to an interoperability agreement described by Subsection (j).

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 965, Sec. 81, eff. June 16, 1995; Acts 1997, 75th Leg., ch. 745, Sec. 15, eff. Jan. 1, 1998; Acts 1999, 76th Leg., ch. 145, Sec. 4, 5(3), eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1342 (S.B. 1273), Sec. 4, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1268 (S.B. 195), Sec. 11, eff. September 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 1268 (S.B. 195), Sec. 12, eff. June 20, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1268 (S.B. 195), Sec. 12, eff. September 1, 2016.

Acts 2017, 85th Leg., R.S., Ch. 485 (H.B. 2561), Sec. 4, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 19.009, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 965 (S.B. 683), Sec. 2, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1144 (H.B. 2847), Sec. 4.002, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1166 (H.B. 3284), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1166 (H.B. 3284), Sec. 10, eff. September 1, 2019.

Sec. 481.0761. RULES; AUTHORITY TO CONTRACT. (a) The board shall by rule establish and revise as necessary a standardized database format that may be used by a pharmacy to transmit the information required by Sections 481.074(q) and 481.075(i) to the board electronically or to deliver the information on storage media, including disks, tapes, and cassettes.

(b) The director shall consult with the Department of State Health Services, the Texas State Board of Pharmacy, and the Texas Medical Board and by rule may:

(1) remove a controlled substance listed in Schedules II through V from the official prescription program, if the director determines that the burden imposed by the program substantially outweighs the risk of diversion of the particular controlled substance; or

(2) return a substance previously removed from Schedules II through V to the official prescription program, if the director determines that the risk of diversion substantially outweighs the burden imposed by the program on the particular controlled substance.

(c) The board by rule may:

(1) establish a procedure for the issuance of multiple prescriptions of a Schedule II controlled substance under Section 481.074(d-1);

(2) remove from or return to the official prescription program any aspect of a practitioner's or pharmacist's hospital practice, including administering or dispensing;

(3) waive or delay any requirement relating to the

time or manner of reporting;

(4) establish compatibility protocols for electronic data transfer hardware, software, or format, including any necessary modifications for participation in a database described by Section 481.076(j);

(5) establish a procedure to control the release of information under Sections 481.074, 481.075, and 481.076; and

(6) establish a minimum level of prescription activity below which a reporting activity may be modified or deleted.

(d) The board by rule shall authorize a practitioner to determine whether it is necessary to obtain a particular patient identification number and to provide that number in the electronic prescription record.

(e) In adopting a rule relating to the electronic transfer of information under this subchapter, the board shall consider the economic impact of the rule on practitioners and pharmacists and, to the extent permitted by law, act to minimize any negative economic impact, including the imposition of costs related to computer hardware or software or to the transfer of information.

(f) The board may authorize a contract between the board and another agency of this state or a private vendor as necessary to ensure the effective operation of the official prescription program.

(g) The board may adopt rules providing for a person authorized to access information under Section 481.076(a)(5) to be enrolled in electronic access to the information described by Section 481.076(a) at the time the person obtains or renews the person's applicable professional or occupational license or registration.

(h) The board, in consultation with the department and the regulatory agencies listed in Section 481.076(a)(1), shall identify prescribing practices that may be potentially harmful and patient prescription patterns that may suggest drug diversion or drug abuse. The board shall determine the conduct that constitutes a potentially harmful prescribing pattern or practice and develop indicators for levels of prescriber or patient activity that suggest a potentially harmful prescribing pattern or practice may

be occurring or drug diversion or drug abuse may be occurring.

(i) The board, based on the indicators developed under Subsection (h), may send an electronic notification to a dispenser or prescriber if the information submitted under Section 481.074(q) or 481.075 indicates a potentially harmful prescribing pattern or practice may be occurring or drug diversion or drug abuse may be occurring.

(j) The board by rule may develop guidelines identifying behavior suggesting a patient is obtaining controlled substances that indicate drug diversion or drug abuse is occurring. A pharmacist who observes behavior described by this subsection by a person who is to receive a controlled substance shall access the information under Section 481.076(a)(5) regarding the patient for whom the substance is to be dispensed.

(k) The board by rule may develop guidelines identifying patterns that may indicate that a particular patient to whom a controlled substance is prescribed or dispensed is engaging in drug abuse or drug diversion. These guidelines may be based on the frequency of prescriptions issued to and filled by the patient, the types of controlled substances prescribed, and the number of prescribers who prescribe controlled substances to the patient. The board may, based on the guidelines developed under this subsection, send a prescriber or dispenser an electronic notification if there is reason to believe that a particular patient is engaging in drug abuse or drug diversion.

Added by Acts 1997, 75th Leg., ch. 745, Sec. 16, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 145, Sec. 5(4), eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1391 (S.B. 1879), Sec. 4, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 774 (S.B. 904), Sec. 3, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1228 (S.B. 594), Sec. 5, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1268 (S.B. 195), Sec. 13, eff. June 20, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1268 (S.B. 195), Sec. 13, eff. September 1, 2016.

Acts 2017, 85th Leg., R.S., Ch. 485 (H.B. 2561), Sec. 5, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1105 (H.B. 2174), Sec. 8, eff. September 1, 2019.

Sec. 481.0762. MONITORING BY REGULATORY AGENCY. (a) Each regulatory agency that issues a license, certification, or registration to a prescriber shall promulgate specific guidelines for prescribers regulated by that agency for the responsible prescribing of opioids, benzodiazepines, barbiturates, or carisoprodol.

(b) A regulatory agency that issues a license, certification, or registration to a prescriber shall periodically access the information submitted to the board under Sections 481.074(q) and 481.075 to determine whether a prescriber is engaging in potentially harmful prescribing patterns or practices.

(c) If the board sends a prescriber an electronic notification authorized under Section 481.0761(i), the board shall immediately send an electronic notification to the appropriate regulatory agency.

(d) In determining whether a potentially harmful prescribing pattern or practice is occurring, the appropriate regulatory agency, at a minimum, shall consider:

(1) the number of times a prescriber prescribes opioids, benzodiazepines, barbiturates, or carisoprodol; and

(2) for prescriptions described by Subdivision (1), patterns of prescribing combinations of those drugs and other dangerous combinations of drugs identified by the board.

(e) If, during a periodic check under this section, the regulatory agency finds evidence that a prescriber may be engaging in potentially harmful prescribing patterns or practices, the regulatory agency may notify that prescriber.

(f) A regulatory agency may open a complaint against a prescriber if the agency finds evidence during a periodic check under this section that the prescriber is engaging in conduct that

violates this subchapter or any other statute or rule.
Added by Acts 2017, 85th Leg., R.S., Ch. 485 (H.B. 2561), Sec. 6, eff. September 1, 2017.

Sec. 481.0763. REGISTRATION BY REGULATORY AGENCY. A regulatory agency that issues a license, certification, or registration to a prescriber or dispenser shall provide the board with any necessary information for each prescriber or dispenser, including contact information for the notifications described by Sections 481.0761(i) and (k), to register the prescriber or dispenser with the system by which the prescriber or dispenser receives information as authorized under Section 481.076(a)(5).
Added by Acts 2017, 85th Leg., R.S., Ch. 485 (H.B. 2561), Sec. 6, eff. September 1, 2017.

Sec. 481.07635. CONTINUING EDUCATION. (a) A person authorized to receive information under Section 481.076(a)(5) shall, not later than the first anniversary after the person is issued a license, certification, or registration to prescribe or dispense controlled substances under this chapter, complete two hours of professional education related to approved procedures of prescribing and monitoring controlled substances.

(b) A person authorized to receive information may annually take the professional education course under this section to fulfil hours toward the ethics education requirement of the person's license, certification, or registration.

(c) The regulatory agency that issued the license, certification, or registration to a person authorized to receive information under Section 481.076(a)(5) shall approve professional education to satisfy the requirements of this section.
Added by Acts 2019, 86th Leg., R.S., Ch. 1105 (H.B. 2174), Sec. 9, eff. September 1, 2019.

Sec. 481.07636. OPIOID PRESCRIPTION LIMITS. (a) In this section, "acute pain" means the normal, predicted, physiological response to a stimulus such as trauma, disease, and operative procedures. Acute pain is time limited. The term does not

include:

(1) chronic pain;

(2) pain being treated as part of cancer care;

(3) pain being treated as part of hospice or other end-of-life care; or

(4) pain being treated as part of palliative care.

(b) For the treatment of acute pain, a practitioner may not:

(1) issue a prescription for an opioid in an amount that exceeds a 10-day supply; or

(2) provide for a refill of an opioid.

(c) Subsection (b) does not apply to a prescription for an opioid approved by the United States Food and Drug Administration for the treatment of substance addiction that is issued by a practitioner for the treatment of substance addiction.

(d) A dispenser is not subject to criminal, civil, or administrative penalties for dispensing or refusing to dispense a controlled substance under a prescription that exceeds the limits provided by Subsection (b).

Added by Acts 2019, 86th Leg., R.S., Ch. 1105 (H.B. 2174), Sec. 9, eff. September 1, 2019.

Sec. 481.0764. DUTIES OF PRESCRIBERS, PHARMACISTS, AND RELATED HEALTH CARE PRACTITIONERS. (a) A person authorized to receive information under Section 481.076(a)(5), other than a veterinarian, shall access that information with respect to the patient before prescribing or dispensing opioids, benzodiazepines, barbiturates, or carisoprodol.

(b) A person authorized to receive information under Section 481.076(a)(5) may access that information with respect to the patient before prescribing or dispensing any controlled substance.

(c) A veterinarian authorized to access information under Subsection (b) regarding a controlled substance may access the information for prescriptions dispensed only for the animals of an owner and may not consider the personal prescription history of the owner.

(d) A violation of Subsection (a) is grounds for

disciplinary action by the regulatory agency that issued a license, certification, or registration to the person who committed the violation.

(e) This section does not grant a person the authority to issue prescriptions for or dispense controlled substances.

Added by Acts 2017, 85th Leg., R.S., Ch. 485 (H.B. 2561), Sec. 6, eff. September 1, 2017.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1167 (H.B. 3285), Sec. 7, eff. September 1, 2019.

Sec. 481.0765. EXCEPTIONS. (a) A prescriber is not subject to the requirements of Section 481.0764(a) if:

(1) the patient has been diagnosed with cancer or sickle cell disease or the patient is receiving hospice care; and

(2) the prescriber clearly notes in the prescription record that the patient was diagnosed with cancer or sickle cell disease or is receiving hospice care, as applicable.

(b) A dispenser is not subject to the requirements of Section 481.0764(a) if it is clearly noted in the prescription record that the patient has been diagnosed with cancer or sickle cell disease or is receiving hospice care.

(c) A prescriber or dispenser is not subject to the requirements of Section 481.0764(a) and a dispenser is not subject to a rule adopted under Section 481.0761(j) if the prescriber or dispenser makes a good faith attempt to comply but is unable to access the information under Section 481.076(a)(5) because of circumstances outside the control of the prescriber or dispenser.

Added by Acts 2017, 85th Leg., R.S., Ch. 485 (H.B. 2561), Sec. 6, eff. September 1, 2017.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 640 (S.B. 1564), Sec. 1, eff. June 10, 2019.

Sec. 481.0766. REPORTS OF WHOLESALE DISTRIBUTORS. (a) A wholesale distributor shall report to the board the distribution of all Schedules II, III, IV, and V controlled substances by the

distributor to a person in this state. The distributor shall report the information to the board in the same format and with the same frequency as the information is reported to the Federal Drug Enforcement Administration.

(b) Information reported to the board under Subsection (a) is confidential and not subject to disclosure under Chapter 552, Government Code.

(c) The board shall make the information reported under Subsection (a) available to the State Board of Veterinary Medical Examiners for the purpose of routine inspections and investigations.

Added by Acts 2017, 85th Leg., R.S., Ch. 485 (H.B. 2561), Sec. 6, eff. September 1, 2017.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 449 (S.B. 1947), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 965 (S.B. 683), Sec. 3, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1144 (H.B. 2847), Sec. 4.003, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1166 (H.B. 3284), Sec. 2, eff. September 1, 2019.

Sec. 481.0767. ADVISORY COMMITTEE. (a) The board shall establish an advisory committee to make recommendations regarding information submitted to the board and access to that information under Sections 481.074, 481.075, 481.076, and 481.0761, including recommendations for:

(1) operational improvements to the electronic system that stores the information, including implementing best practices and improvements that address system weaknesses and workflow challenges;

(2) resolutions to identified data concerns;

(3) methods to improve data accuracy, integrity, and security and to reduce technical difficulties; and

(4) the addition of any new data set or service to the information submitted to the board or the access to that

information.

(b) The board shall appoint the following members to the advisory committee:

(1) a physician licensed in this state who practices in pain management;

(2) a physician licensed in this state who practices in family medicine;

(3) a physician licensed in this state who performs surgery;

(4) a physician licensed in this state who practices in emergency medicine at a hospital;

(5) a physician licensed in this state who practices in psychiatry;

(6) an oral and maxillofacial surgeon;

(7) a physician assistant or advanced practice registered nurse to whom a physician has delegated the authority to prescribe or order a drug;

(8) a pharmacist working at a chain pharmacy;

(9) a pharmacist working at an independent pharmacy;

(10) an academic pharmacist; and

(11) two representatives of the health information technology industry, at least one of whom is a representative of a company whose primary line of business is electronic medical records.

(c) Members of the advisory committee serve three-year terms. Each member shall serve until the member's replacement has been appointed.

(d) The advisory committee shall annually elect a presiding officer from its members.

(e) The advisory committee shall meet at least two times a year and at the call of the presiding officer or the board.

(f) A member of the advisory committee serves without compensation but may be reimbursed by the board for actual expenses incurred in performing the duties of the advisory committee.

Added by Acts 2019, 86th Leg., R.S., Ch. 1166 (H.B. 3284), Sec. 3, eff. September 1, 2019.

Sec. 481.0768. ADMINISTRATIVE PENALTY: DISCLOSURE OR USE OF INFORMATION. (a) A person authorized to receive information under Section 481.076(a) may not disclose or use the information in a manner not authorized by this subchapter or other law.

(b) A regulatory agency that issues a license, certification, or registration to a prescriber or dispenser shall periodically update the administrative penalties, or any applicable disciplinary guidelines concerning the penalties, assessed by that agency for conduct that violates Subsection (a).

(c) The agency shall set the penalties in an amount sufficient to deter the conduct.

Added by Acts 2019, 86th Leg., R.S., Ch. 1166 (H.B. 3284), Sec. 3, eff. September 1, 2019.

Sec. 481.0769. CRIMINAL OFFENSES RELATED TO PRESCRIPTION INFORMATION. (a) A person authorized to receive information under Section 481.076(a) commits an offense if the person discloses or uses the information in a manner not authorized by this subchapter or other law.

(b) A person requesting information under Section 481.076(a-6) commits an offense if the person makes a material misrepresentation or fails to disclose a material fact in the request for information under that subsection.

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

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

Added by Acts 2019, 86th Leg., R.S., Ch. 1166 (H.B. 3284), Sec. 3, eff. September 1, 2019.

Sec. 481.077. CHEMICAL PRECURSOR RECORDS AND REPORTS. (a) Except as provided by Subsection (l), a person who sells, transfers, or otherwise furnishes a chemical precursor to another person shall make an accurate and legible record of the transaction and maintain the record for at least two years after the date of the transaction.

(b) The director by rule may:

(1) name an additional chemical substance as a chemical precursor for purposes of Subsection (a) if the director determines that public health and welfare are jeopardized by evidenced proliferation or use of the chemical substance in the illicit manufacture of a controlled substance or controlled substance analogue; or

(2) exempt a chemical precursor from the requirements of Subsection (a) if the director determines that the chemical precursor does not jeopardize public health and welfare or is not used in the illicit manufacture of a controlled substance or a controlled substance analogue.

(b-1) If the director names a chemical substance as a chemical precursor for purposes of Subsection (a) or designates a substance as an immediate precursor, a substance that is a precursor of the chemical precursor or the immediate precursor is not subject to control solely because it is a precursor of the chemical precursor or the immediate precursor.

(c) This section does not apply to a person to whom a registration has been issued by the Federal Drug Enforcement Agency or who is exempt from such registration.

(d) Before selling, transferring, or otherwise furnishing to a person in this state a chemical precursor subject to Subsection (a), a manufacturer, wholesaler, retailer, or other person shall:

(1) if the recipient does not represent a business, obtain from the recipient:

(A) the recipient's driver's license number or other personal identification certificate number, date of birth, and residential or mailing address, other than a post office box number, from a driver's license or personal identification certificate issued by the department that contains a photograph of the recipient;

(B) the year, state, and number of the motor vehicle license of the motor vehicle owned or operated by the recipient;

(C) a complete description of how the chemical precursor is to be used; and

(D) the recipient's signature; or

(2) if the recipient represents a business, obtain from the recipient:

(A) a letter of authorization from the business that includes the business license or comptroller tax identification number, address, area code, and telephone number and a complete description of how the chemical precursor is to be used; and

(B) the recipient's signature; and

(3) for any recipient, sign as a witness to the signature and identification of the recipient.

(e) Repealed by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 4.011(1), eff. September 1, 2019.

(f) Repealed by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 4.011(1), eff. September 1, 2019.

(g) Repealed by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 4.011(1), eff. September 1, 2019.

(h) Repealed by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 4.011(1), eff. September 1, 2019.

(i) A manufacturer, wholesaler, retailer, or other person who discovers a loss or theft of a chemical precursor subject to Subsection (a) shall:

(1) submit a report of the transaction to the director in accordance with department rule; and

(2) include in the report:

(A) any difference between the amount of the chemical precursor actually received and the amount of the chemical precursor shipped according to the shipping statement or invoice; or

(B) the amount of the loss or theft.

(j) A report under Subsection (i) must:

(1) be made not later than the third day after the date that the manufacturer, wholesaler, retailer, or other person learns of the discrepancy, loss, or theft; and

(2) if the discrepancy, loss, or theft occurred during a shipment of the chemical precursor, include the name of the common carrier or person who transported the chemical precursor and the date that the chemical precursor was shipped.

(k) A manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any chemical precursor subject to Subsection (a), or a commercial purchaser or other person who receives a chemical precursor subject to Subsection (a):

(1) shall maintain records and inventories in accordance with rules established by the director;

(2) shall allow a member of the department or a peace officer to conduct audits and inspect records of purchases and sales and all other records made in accordance with this section at any reasonable time; and

(3) may not interfere with the audit or with the full and complete inspection or copying of those records.

(l) This section does not apply to the sale or transfer of any compound, mixture, or preparation containing ephedrine, pseudoephedrine, or norpseudoephedrine that is in liquid, liquid capsule, or liquid gel capsule form.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 1100, Sec. 5.02(k), eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 745, Sec. 17, eff. Jan. 1, 1998; Acts 2001, 77th Leg., ch. 251, Sec. 12, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 570, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1099, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 282 (H.B. 164), Sec. 4, eff. August 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1268 (S.B. 195), Sec. 14, eff. September 1, 2016.

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 4.001, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 4.011(1), eff. September 1, 2019.

Sec. 481.0771. RECORDS AND REPORTS ON PSEUDOEPHEDRINE. (a) A wholesaler who sells, transfers, or otherwise furnishes a product containing ephedrine, pseudoephedrine, or norpseudoephedrine to a retailer shall:

(1) before delivering the product, obtain from the

retailer the retailer's address, area code, and telephone number; and

(2) make an accurate and legible record of the transaction and maintain the record for at least two years after the date of the transaction.

(b) The wholesaler shall make all records available to the director in accordance with department rule, including:

(1) the information required by Subsection (a)(1);

(2) the amount of the product containing ephedrine, pseudoephedrine, or norpseudoephedrine delivered; and

(3) any other information required by the director.

(c) Not later than 10 business days after receipt of an order for a product containing ephedrine, pseudoephedrine, or norpseudoephedrine that requests delivery of a suspicious quantity of the product as determined by department rule, a wholesaler shall submit to the director a report of the order in accordance with department rule.

(d) A wholesaler who, with reckless disregard for the duty to report, fails to report as required by Subsection (c) may be subject to disciplinary action in accordance with department rule.

Added by Acts 2005, 79th Leg., Ch. 282 (H.B. 164), Sec. 5, eff. August 1, 2005.

Sec. 481.080. CHEMICAL LABORATORY APPARATUS RECORD-KEEPING REQUIREMENTS. (a) A manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes a chemical laboratory apparatus shall make an accurate and legible record of the transaction and maintain the record for at least two years after the date of the transaction.

(b) The director may adopt rules to implement this section.

(c) The director by rule may:

(1) name an additional item of equipment as a chemical laboratory apparatus for purposes of Subsection (a) if the director determines that public health and welfare are jeopardized by evidenced proliferation or use of the item of equipment in the illicit manufacture of a controlled substance or controlled substance analogue; or

(2) exempt a chemical laboratory apparatus from the requirement of Subsection (a) if the director determines that the apparatus does not jeopardize public health and welfare or is not used in the illicit manufacture of a controlled substance or a controlled substance analogue.

(d) This section does not apply to a person to whom a registration has been issued by the Federal Drug Enforcement Agency or who is exempt from such registration.

(d-1) This section does not apply to a chemical manufacturer engaged in commercial research and development:

(1) whose primary business is the manufacture, use, storage, or transportation of hazardous, combustible, or explosive materials;

(2) that operates a secure, restricted location that contains a physical plant not open to the public, the ingress into which is constantly monitored by security personnel; and

(3) that holds:

(A) a Voluntary Protection Program Certification under Section (2)(b)(1), Occupational Safety and Health Act of 1970 (29 U.S.C. Section 651 et seq.); or

(B) a Facility Operations Area authorization under the Texas Risk Reduction Program (30 T.A.C. Chapter 350).

(e) Before selling, transferring, or otherwise furnishing to a person in this state a chemical laboratory apparatus subject to Subsection (a), a manufacturer, wholesaler, retailer, or other person shall:

(1) if the recipient does not represent a business, obtain from the recipient:

(A) the recipient's driver's license number or other personal identification certificate number, date of birth, and residential or mailing address, other than a post office box number, from a driver's license or personal identification certificate issued by the department that contains a photograph of the recipient;

(B) the year, state, and number of the motor vehicle license of the motor vehicle owned or operated by the recipient;

(C) a complete description of how the apparatus is to be used; and

(D) the recipient's signature; or

(2) if the recipient represents a business, obtain from the recipient:

(A) a letter of authorization from the business that includes the business license or comptroller tax identification number, address, area code, and telephone number and a complete description of how the apparatus is to be used; and

(B) the recipient's signature; and

(3) for any recipient, sign as a witness to the signature and identification of the recipient.

(f) Repealed by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 4.011(3), eff. September 1, 2019.

(g) Repealed by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 4.011(3), eff. September 1, 2019.

(h) Repealed by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 4.011(3), eff. September 1, 2019.

(i) Repealed by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 4.011(3), eff. September 1, 2019.

(j) A manufacturer, wholesaler, retailer, or other person who discovers a loss or theft of such an apparatus shall:

(1) submit a report of the transaction to the director in accordance with department rule; and

(2) include in the report:

(A) any difference between the number of the apparatus actually received and the number of the apparatus shipped according to the shipping statement or invoice; or

(B) the number of the loss or theft.

(k) A report under Subsection (j) must:

(1) be made not later than the third day after the date that the manufacturer, wholesaler, retailer, or other person learns of the discrepancy, loss, or theft; and

(2) if the discrepancy, loss, or theft occurred during a shipment of the apparatus, include the name of the common carrier or person who transported the apparatus and the date that the apparatus was shipped.

(l) This subsection applies to a manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any chemical laboratory apparatus subject to Subsection (a) and to a commercial purchaser or other person who receives such an apparatus. A person covered by this subsection:

(1) shall maintain records and inventories in accordance with rules established by the director;

(2) shall allow a member of the department or a peace officer to conduct audits and inspect records of purchases and sales and all other records made in accordance with this section at any reasonable time; and

(3) may not interfere with the audit or with the full and complete inspection or copying of those records.

Added by Acts 1989, 71st Leg., ch. 1100, Sec. 5.02(l), eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 745, Sec. 19, eff. Jan. 1, 1998; Acts 2001, 77th Leg., ch. 251, Sec. 14, eff. Sept. 1, 2001. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 83 (S.B. 1666), Sec. 1, eff. May 22, 2015.

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 4.002, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 4.003, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 4.011(3), eff. September 1, 2019.

SUBCHAPTER D. OFFENSES AND PENALTIES

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

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

of:

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

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;

Levophenacylmorphan;

Meprodine;

Methadol;

Moramide;

Morpheridine;

Noracymethadol;

Norlevorphanol;

Normethadone;

Norpipanone;

Phenadoxone;

Phenampromide;

Phenomorphan;

Phenoperidine;

Piritramide;

Proheptazine;

Properidine;

Propiram;

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;

Hydromorphinol;

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;

Oripavine;

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; 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; 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:

Alphaprodine;

Anileridine;

Bezitramide;

Dihydrocodeine not listed in Penalty Group 3 or 4;

Diphenoxylate not listed in Penalty Group 3 or 4;

Isomethadone;

Levomethorphan;

Levorphanol;

Metazocine;

Methadone;

Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;

Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;

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; and

Racemorphan;

(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;

(10) Ketamine;

(11) Phenazepam;

(12) U-47700;

(13) AH-7921;

(14) ADB-FUBINACA;

(15) AMB-FUBINACA; and

(16) MDMB-CHMICA.

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

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 739 (S.B. 449), Sec. 1, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 491 (H.B. 2671), Sec. 1, eff. September 1, 2017.

Acts 2021, 87th Leg., R.S., Ch. 584 (S.B. 768), Sec. 2, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 910 (H.B. 6), Sec. 2, eff. September 1, 2023.

Sec. 481.1021. PENALTY GROUP 1-A. (a) Penalty Group 1-A consists of:

(1) lysergic acid diethylamide (LSD), including its salts, isomers, and salts of isomers; and

(2) compounds structurally derived from 2,5-dimethoxyphenethylamine by substitution at the 1-amino nitrogen atom with a benzyl substituent, including:

(A) compounds further modified by:

(i) substitution in the phenethylamine ring at the 4-position to any extent (including alkyl, alkoxy, alkylenedioxy, haloalkyl, or halide substituents); or

(ii) substitution in the benzyl ring to any extent (including alkyl, alkoxy, alkylenedioxy, haloalkyl, or halide substituents); and

(B) by example, compounds such as:

4-Bromo-2,5-dimethoxy-N-(2-methoxybenzyl) phenethylamine (trade or other names: 25B-NBOMe, 2C-B-NBOMe);

4-Chloro-2,5-dimethoxy-N-(2-methoxybenzyl) phenethylamine (trade or other names: 25C-NBOMe, 2C-C-NBOMe);

2,5-Dimethoxy-4-methyl-N-(2-methoxybenzyl) phenethylamine (trade or other names: 25D-NBOMe, 2C-D-NBOMe);

4-Ethyl-2,5-dimethoxy-N-(2-methoxybenzyl) phenethylamine (trade or other names: 25E-NBOMe, 2C-E-NBOMe);

2,5-Dimethoxy-N-(2-methoxybenzyl)phenethylamine (some trade and other names: 25H-NBOMe, 2C-H-NBOMe);

4-Iodo-2,5-dimethoxy-N-(2-methoxybenzyl) phenethylamine (some trade and other names: 25I-NBOMe, 2C-I-NBOMe);

4-Iodo-2,5-dimethoxy-N-benzylphenethylamine (trade or other name: 25I-NB);

4-Iodo-2,5-dimethoxy-N-(2,3-methylenedioxybenzyl)phenethylamine (trade or other name: 25I-NBMD);

4-Iodo-2,5-dimethoxy-N-(2-fluorobenzyl)phenethylamine (trade or other name: 25I-NBF);

4-Iodo-2,5-dimethoxy-N-(2-hydroxybenzyl) phenethylamine (trade or other name: 25I-NBOH);

2,5-Dimethoxy-4-nitro-N-(2-methoxybenzyl) phenethylamine (trade or other names: 25N-NBOMe, 2C-N-NBOMe); and

2,5-Dimethoxy-4-(n)-propyl-N-(2-methoxybenzyl)phenethylamine (some trade and other names: 25P-NBOMe, 2C-P-NBOMe).

(b) To the extent Subsection (a)(2) conflicts with another provision of this subtitle or another law, the other provision or

the other law prevails.

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 64 (S.B. 172), Sec. 2, eff. September 1, 2015.

Sec. 481.1022. PENALTY GROUP 1-B. Penalty Group 1-B consists of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, 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);

Alfentanil;

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

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

Beta-hydroxy-3-methylfentanyl;

Carfentanil;

Fentanyl, alpha-methylfentanyl, and any other derivative of fentanyl;

3-methylfentanyl(N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);

3-methylthiofentanyl(N-[3-methyl-1-(2-thienyl) ethyl-4-piperidinyl]-N-phenylpropanamide);

Para-fluorofentanyl(N-(4-fluorophenyl)-N-1-(2-phenylethyl)-4-piperidinylpropanamide);

Remifentanil;

Sufentanil; and

Thiofentanyl(N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide).

Added by Acts 2021, 87th Leg., R.S., Ch. 584 (S.B. 768), Sec. 3, eff. September 1, 2021.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 910 (H.B. 6), Sec. 3, eff. September 1, 2023.

Sec. 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:

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

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

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

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

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

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

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

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

Benzothiophenylcyclohexylpiperidine (BTCP);

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

Desoxypipradrol (2-benzhydrylpiperidine);

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

Diphenylprolinol (diphenyl(pyrrolidin-2-yl) methanol, D2PM);

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);

2-ethylamino-2-(3-methoxyphenyl)cyclohexanone (trade or other name: methoxetamine);

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.);

5-iodo-2-aminoindane (5-IAI);

Mescaline;

5-methoxy-3, 4-methylenedioxy amphetamine;

4-methoxyamphetamine (some trade or other names: 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine; PMA);

4-methoxymethamphetamine (PMMA);

2-(2-methoxyphenyl)-2-(methylamino)cyclohexanone (some trade and other names: 2-MeO-ketamine; methoxyketamine);

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);

5,6-methylenedioxy-2-aminoindane (MDAI);

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);

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; or

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

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

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

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

3,4,5-trimethoxy amphetamine;

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

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

Etaqualone and its salts;

Etorphine Hydrochloride;

Fenethylline and its salts;

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

Mecloqualone and its salts;

Methaqualone and its salts;

Methcathinone (some trade or other names: 2-methylamino-propiophenone; alpha-(methylamino)propriophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropriophenone; 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;

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

(A) compounds further modified by:

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

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

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

(B) by example, compounds such as:

4-Methylmethcathinone (Also known as Mephedrone);

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

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

4-Fluoromethcathinone (Also known as Flephedrone);

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

3,4-Methylenedioxypyrovalerone (Also known as MDPV);

alpha-Pyrrolidinopentiophenone (Also known as alpha-PVP);

Naphthylpyrovalerone (Also known as Naphyrone);

alpha-Methylamino-valerophenone (Also known as Pentedrone);

beta-Keto-N-methylbenzodioxolylpropylamine (Also known as Butylone);

beta-Keto-N-methylbenzodioxolylpentanamine (Also known as Pentylone);

beta-Keto-Ethylbenzodioxolylbutanamine (Also known as Eutylone); and

3,4-methylenedioxy-N-ethylcathinone (Also known as Ethylone);

(5) any compound structurally derived from tryptamine (3-(2-aminoethyl)indole) or a ring-hydroxy tryptamine:

(A) by modification in any of the following ways:

(i) by substitution at the amine nitrogen atom of the sidechain to any extent with alkyl or alkenyl groups or by inclusion of the amine nitrogen atom of the side chain (and no other atoms of the side chain) in a cyclic structure;

(ii) by substitution at the carbon atom adjacent to the nitrogen atom of the side chain (alpha-position) with an alkyl or alkenyl group;

(iii) by substitution in the 6-membered

ring to any extent with alkyl, alkoxy, haloalkyl, thioaklyl, alkylenedioxy, or halide substituents; or

(iv) by substitution at the 2-position of the tryptamine ring system with an alkyl substituent; and

(B) including:

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

(ii) by example, compounds such as:

alpha-ethyltryptamine;

alpha-methyltryptamine;

Bufotenine (some trade and other names: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)- 5- indolol; N, N-dimethylserotonin; 5-hydroxy-N, N- dimethyltryptamine; mappine);

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

Dimethyltryptamine (trade or other name: DMT);

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

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

Psilocin; and

Psilocybin;

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

4-Bromo-2,5-dimethoxyphenethylamine (trade or other name: 2C-B);

4-Chloro-2,5-dimethoxyphenethylamine (trade or other name: 2C-C);

2,5-Dimethoxy-4-methylphenethylamine (trade or other name: 2C-D);

4-Ethyl-2,5-dimethoxyphenethylamine (trade or other name: 2C-E);

4-Iodo-2,5-dimethoxyphenethylamine (trade or other name: 2C-I);

2,5-Dimethoxy-4-nitrophenethylamine (trade or other name: 2C-N);

2,5-Dimethoxy-4-(n)-propylphenethylamine (trade or other name: 2C-P);

4-Ethylthio-2,5-dimethoxyphenethylamine (trade or other name: 2C-T-2);

4-Isopropylthio-2,5-dimethoxyphenethylamine (trade or other name: 2C-T-4); and

2,5-Dimethoxy-4-(n)-propylthiophenethylamine (trade or other name: 2C-T-7); and

(7) 2,5-Dimethoxyamphetamine and any compound structurally derived from 2,5-Dimethoxyamphetamine by substitution at the 4-position of the phenyl ring to any extent (including alkyl, alkoxy, alkylenedioxy, haloalkyl, or halide substituents), including, by example, compounds such as:

4-Ethylthio-2,5-dimethoxyamphetamine (trade or other name: Aleph-2);

4-Isopropylthio-2,5-dimethoxyamphetamine (trade or other name: Aleph-4);

4-Bromo-2,5-dimethoxyamphetamine (trade or other name: DOB);

4-Chloro-2,5-dimethoxyamphetamine (trade or other name: DOC);

2,5-Dimethoxy-4-ethylamphetamine (trade or other name: DOET);

4-Iodo-2,5-dimethoxyamphetamine (trade or other name: DOI);

2,5-Dimethoxy-4-methylamphetamine (trade or other name: DOM);

2,5-Dimethoxy-4-nitroamphetamine (trade or other name: DON);

4-Isopropyl-2,5-dimethoxyamphetamine (trade or other name: DOIP); and

2,5-Dimethoxy-4-(n)-propylamphetamine (trade or other name: DOPR).

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

(c) To the extent Subsection (a)(4), (5), (6), or (7) conflicts with another provision or this subtitle or another law, the other provision or the other law prevails. If a substance listed in this section is also listed in another penalty group, the listing in the other penalty group controls.

(d) Repealed by Acts 2017, 85th Leg., R.S., Ch. 384 (S.B. 227), Sec. 1, and Ch. 491 (H.B. 2671), Sec. 3, eff. September 1, 2017.

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

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 739 (S.B. 449), Sec. 2, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 784 (H.B. 2118), Sec. 1, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 64 (S.B. 172), Sec. 3, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 384 (S.B. 227), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 491 (H.B. 2671), Sec. 3, eff. September 1, 2017.

Sec. 481.1031. PENALTY GROUP 2-A. (a) In this section:

(1) "Core component" is one of the following: azaindole, benzimidazole, benzothiazole, carbazole, imidazole, indane, indazole, indene, indole, pyrazole, pyrazolopyridine, pyridine, or pyrrole.

(2) "Group A component" is one of the following: adamantane, benzene, cycloalkylmethyl, isoquinoline, methylpiperazine, naphthalene, phenyl, quinoline, tetrahydronaphthalene, tetramethylcyclopropane, amino oxobutane, amino dimethyl oxobutane, amino phenyl oxopropane, methyl methoxy oxobutane, methoxy dimethyl oxobutane, methoxy phenyl oxopropane, or an amino acid.

(3) "Link component" is one of the following functional groups: carboxamide, carboxylate, hydrazide, methanone (ketone), ethanone, methanediyl (methylene bridge), or methine.

(b) Penalty Group 2-A consists of any material, compound, mixture, or preparation that contains any quantity of a natural or synthetic chemical substance, including its salts, isomers, and salts of isomers, listed by name in this subsection or contained within one of the structural classes defined in this subsection:

(1) WIN-55,212-2;

(2) Cyclohexylphenol: any compound structurally derived from 2-(3-hydroxycyclohexyl)phenol by substitution at the 5-position of the phenolic ring, (N-methylpiperidin-2-yl)alkyl, (4-tetrahydropyran)alkyl, or 2-(4-morpholinyl)alkyl, whether or not substituted in the cyclohexyl ring to any extent, including:

JWH-337;

JWH-344;

CP-55,940;

CP-47,497; and

analogues of CP-47,497;

(3) Cannabinol derivatives, except where contained in marihuana, including tetrahydro derivatives of cannabinol and 3-alkyl homologues of cannabinol or of its tetrahydro derivatives, such as:

Nabilone;

HU-210; and

HU-211;

(4) Tetramethylcyclopropyl thiazole: any compound structurally derived from 2,2,3,3-tetramethyl-N-(thiazol-2-ylidene)cyclopropanecarboxamide by substitution at the nitrogen atom of the thiazole ring, whether or not further substituted in the thiazole ring to any extent, whether or not substituted in the tetramethylcyclopropyl ring to any extent, including:

A-836,339;

(5) any compound containing a core component substituted at the 1-position to any extent, and substituted at the 3-position with a link component attached to a group A component,

whether or not the core component or group A component are further substituted to any extent, including:

Naphthoylindane;

Naphthoylindazole (THJ-018);

Naphthyl methyl indene (JWH-171);

Naphthoylindole (JWH-018);

Quinolinoyl pyrazole carboxylate (Quinolinyl fluoropentyl fluorophenyl pyrazole carboxylate);

Naphthoyl pyrazolopyridine; and

Naphthoylpyrrole (JWH-030);

(6) any compound containing a core component substituted at the 1-position to any extent, and substituted at the 2-position with a link component attached to a group A component, whether or not the core component or group A component are further substituted to any extent, including:

Naphthoylbenzimidazole (JWH-018 Benzimidazole); and

Naphthoylimidazole;

(7) any compound containing a core component substituted at the 3-position to any extent, and substituted at the 2-position with a link component attached to a group A component, whether or not the core component or group A component are further substituted to any extent, including:

Naphthoyl benzothiazole; and

(8) any compound containing a core component substituted at the 9-position to any extent, and substituted at the 3-position with a link component attached to a group A component, whether or not the core component or group A component are further substituted to any extent, including:

Naphthoylcarbazole (EG-018).

Added by Acts 2011, 82nd Leg., R.S., Ch. 170 (S.B. 331), Sec. 1, eff. September 1, 2011.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 65 (S.B. 173), Sec. 2, eff. September 1, 2015.

Sec. 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;

Carisoprodol;

Chlordiazepoxide;

Chlorhexadol;

Clobazam;

Clonazepam;

Clorazepate;

Clotiazepam;

Cloxazolam;

Delorazepam;

Diazepam;

Estazolam;

Ethyl loflazepate;

Etizolam;

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, flupyrazapon);

Tramadol;

Triazolam;

Zaleplon;

Zolpidem; and

Zopiclone;

(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;

Pemoline (including organometallic complexes and their chelates);

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);

(9) an anabolic steroid, including any drug or hormonal substance, or any substance that is chemically or pharmacologically related to testosterone, other than an estrogen, progestin, dehydroepiandrosterone, or corticosteroid, and promotes muscle growth, including the following drugs and substances and any salt, ester, or ether of the following drugs and substances:

Androstanediol;

Androstanedione;

Androstenediol;

Androstenedione;

Bolasterone;

Boldenone;

Calusterone;

Clostebol;

Dehydrochlormethyltestosterone;

Delta-1-dihydrotestosterone;

Dihydrotestosterone (4-dihydrotestosterone);

Drostanolone;

Ethylestrenol;

Fluoxymesterone;

Formebulone;

Furazabol;

13beta-ethyl-17beta-hydroxygon-4-en-3-one;

4-hydroxytestosterone;

4-hydroxy-19-nortestosterone;

Mestanolone;

Mesterolone;

Methandienone;

Methandriol;

Methenolone;

17alpha-methyl-3beta, 17 beta-dihydroxy-5alpha-androstane;

17alpha-methyl-3alpha, 17 beta-dihydroxy-5alpha-androstane;

17alpha-methyl-3beta, 17beta-dihydroxyandrost-4-ene;

17alpha-methyl-4-hydroxynandrolone;

Methyldienolone;

Methyltestosterone;

Methyltrienolone;

17alpha-methyl-delta-1-dihydrotestosterone;

Mibolerone;

Nandrolone;

Norandrostenediol;

Norandrostenedione;

Norbolethone;

Norclostebol;

Norethandrolone;

Normethandrolone;

Oxandrolone;

Oxymesterone;

Oxymetholone;

Stanozolol;

Stenbolone;

Testolactone;

Testosterone;

Tetrahydrogestrinone; and

Trenbolone; and

(10) Salvia divinorum, unless unharvested and growing in its natural state, meaning all parts of that plant, whether growing or not, the seeds of that plant, an extract from a part of that plant, and every compound, manufacture, salt, derivative, mixture, or preparation of that plant, its seeds, or extracts, including Salvinorin A.

(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, Sec. 24, eff. Jan. 1, 1998; Acts 2001, 77th Leg., ch. 251, Sec. 18, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 739 (S.B. 449), Sec. 3, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1254 (H.B. 124), Sec. 1, eff.

September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 491 (H.B. 2671), Sec. 2, eff. September 1, 2017.

Sec. 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, Sec. 25, eff. Jan. 1, 1998; Acts 2001, 77th Leg., ch. 251, Sec. 19, eff. Sept. 1, 2001.

Sec. 481.106. CLASSIFICATION OF CONTROLLED SUBSTANCE ANALOGUE. For the purposes of the prosecution of an offense under

this subchapter involving the manufacture, delivery, or possession of a controlled substance, Penalty Groups 1, 1-A, 1-B, 2, and 2-A 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, Sec. 9, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 65 (S.B. 173), Sec. 3, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 712 (H.B. 1212), Sec. 5, eff. September 1, 2015.

Acts 2021, 87th Leg., R.S., Ch. 584 (S.B. 768), Sec. 4, eff. September 1, 2021.

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

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

Sec. 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 or to a person who supplies the substance to the church. 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, 481.1161, 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.

(e) Sections 481.120, 481.121, 481.122, and 481.125 do not apply to a person who engages in the acquisition, possession, production, cultivation, delivery, or disposal of a raw material used in or by-product created by the production or cultivation of low-THC cannabis if the person:

(1) for an offense involving possession only of marihuana or drug paraphernalia, is a patient for whom low-THC cannabis is prescribed under Chapter 169, Occupations Code, or the patient's legal guardian, and the person possesses low-THC cannabis obtained under a valid prescription from a dispensing organization; or

(2) is a director, manager, or employee of a dispensing organization and the person, solely in performing the person's regular duties at the organization, acquires, possesses, produces, cultivates, dispenses, or disposes of:

(A) in reasonable quantities, any low-THC cannabis or raw materials used in or by-products created by the production or cultivation of low-THC cannabis; or

(B) any drug paraphernalia used in the acquisition, possession, production, cultivation, delivery, or disposal of low-THC cannabis.

(f) For purposes of Subsection (e):

(1) "Dispensing organization" has the meaning assigned by Section 487.001.

(2) "Low-THC cannabis" has the meaning assigned by Section 169.001, Occupations Code.

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

Acts 2011, 82nd Leg., R.S., Ch. 170 (S.B. 331), Sec. 2, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 301 (S.B. 339), Sec. 3, eff. June 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 4.004, eff. September 1, 2019.

Sec. 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 a felony of the first degree punishable by imprisonment in 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 a felony of the first degree punishable by imprisonment in 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, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 2.02, eff. Sept. 1, 1994; Acts 2001, 77th Leg., ch. 1188, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.095, eff. September 1, 2009.

Acts 2023, 88th Leg., R.S., Ch. 910 (H.B. 6), Sec. 4, eff. September 1, 2023.

Sec. 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) a felony of the first degree punishable by imprisonment in 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, Sec. 26, eff. Jan. 1, 1998.

Amended by Acts 2001, 77th Leg., ch. 1188, Sec. 3, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.096, eff. September 1, 2009.

Acts 2023, 88th Leg., R.S., Ch. 910 (H.B. 6), Sec. 5, eff. September 1, 2023.

Sec. 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 (H.B. 946), Sec. 1, eff. September 1, 2007.

Sec. 481.1123. OFFENSE: MANUFACTURE OR DELIVERY OF SUBSTANCE IN PENALTY GROUP 1-B. (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.

(b) An offense under Subsection (a) is a felony of the third degree 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 punishable by imprisonment in 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 $20,000, 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 a felony of the first degree punishable by imprisonment in 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 $200,000, 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 a felony of the first degree punishable by imprisonment in the Texas Department of Criminal Justice for life or for a term of not more than 99 years or less than 20 years, and a fine not to exceed $500,000, if the amount of the controlled substance to which the offense applies is, by aggregate weight, including adulterants or dilutants, 400 grams or more.

Added by Acts 2021, 87th Leg., R.S., Ch. 584 (S.B. 768), Sec. 5, eff. September 1, 2021.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 910 (H.B. 6), Sec. 6, eff. September 1, 2023.

Sec. 481.113. OFFENSE: MANUFACTURE OR DELIVERY OF SUBSTANCE IN PENALTY GROUP 2 OR 2-A. (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 or 2-A.

(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 a felony of the first degree punishable by imprisonment in 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, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 2.02, eff. Sept. 1, 1994; Acts 2001, 77th Leg., ch. 1188, Sec. 4, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.097, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 170 (S.B. 331), Sec. 3, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 170 (S.B. 331), Sec. 4, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 910 (H.B. 6), Sec. 7, eff. September 1, 2023.

Sec. 481.1131. CAUSE OF ACTION FOR SALE OR PROVISION OF SYNTHETIC CANNABINOID. (a) In this section, "synthetic cannabinoid" means a substance included in Penalty Group 2-A under Section 481.1031.

(b) This section does not affect the right of a person to bring a common law cause of action against an individual whose consumption or ingestion of a synthetic cannabinoid resulted in causing the person bringing the suit to suffer personal injury or property damage.

(c) Providing, selling, or serving a synthetic cannabinoid may be made the basis of a statutory cause of action under this section on proof that the intoxication of the recipient of the synthetic cannabinoid was a proximate cause of the damages suffered.

(d) The liability provided under this section for the actions of a retail establishment's employees, customers, members, or guests who are or become intoxicated by the consumption or ingestion of a synthetic cannabinoid is in lieu of common law or other statutory law warranties and duties of retail establishments.

(e) This chapter does not impose obligations on a retail establishment other than those expressly stated in this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 539 (S.B. 341), Sec. 3, eff. September 1, 2017.

Sec. 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 a felony of the first degree punishable by imprisonment in 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, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 2.02, eff. Sept. 1, 1994; Acts 2001, 77th Leg., ch. 1188, Sec. 5, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.098, eff. September 1, 2009.

Acts 2023, 88th Leg., R.S., Ch. 910 (H.B. 6), Sec. 8, eff. September 1, 2023.

Sec. 481.115. OFFENSE: POSSESSION OF SUBSTANCE IN PENALTY GROUP 1 OR 1-B. (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 or 1-B, unless the person obtained the substance directly from or under a valid prescription or order of a practitioner acting in the course of professional practice.

(b) An offense under 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 a felony of the first degree punishable by imprisonment in 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.

(g) It is a defense to prosecution for an offense punishable under Subsection (b) that the actor:

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

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

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

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

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

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

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

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

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

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

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

483.041(e), or 485.031(c); or

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

(i) The defense to prosecution provided by Subsection (g) does not preclude the admission of evidence obtained by law enforcement resulting from the request for emergency medical assistance if that evidence pertains to an offense for which the defense described by Subsection (g) is not available.

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

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.099, eff. September 1, 2009.

Acts 2021, 87th Leg., R.S., Ch. 584 (S.B. 768), Sec. 6, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 584 (S.B. 768), Sec. 7, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 808 (H.B. 1694), Sec. 2, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 910 (H.B. 6), Sec. 9, eff. September 1, 2023.

Sec. 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) a felony of the first degree punishable by imprisonment in 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) The defense to prosecution provided by Subsection (c) does not preclude the admission of evidence obtained by law enforcement resulting from the request for emergency medical assistance if that evidence pertains to an offense for which the defense described by Subsection (c) is not available.

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

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.100, eff. September 1, 2009.

Acts 2021, 87th Leg., R.S., Ch. 808 (H.B. 1694), Sec. 3, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 910 (H.B. 6), Sec. 10, eff. September 1, 2023.

Sec. 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 a felony of the first degree punishable by imprisonment in 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.

(f) It is a defense to prosecution for an offense punishable under Subsection (b) that the actor:

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

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

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

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

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

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

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

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

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

481.125(a), 483.041(a), or 485.031(a);

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

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

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

(h) The defense to prosecution provided by Subsection (f) does not preclude the admission of evidence obtained by law enforcement resulting from the request for emergency medical assistance if that evidence pertains to an offense for which the defense described by Subsection (f) is not available.

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

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.101, eff. September 1, 2009.

Acts 2021, 87th Leg., R.S., Ch. 808 (H.B. 1694), Sec. 4, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 910 (H.B. 6), Sec. 11, eff. September 1, 2023.

Sec. 481.1161. OFFENSE: POSSESSION OF SUBSTANCE IN PENALTY GROUP 2-A. (a) Except as authorized by this chapter, a person commits an offense if the person knowingly possesses a controlled substance listed in Penalty Group 2-A, unless the person obtained the substance directly from or under a valid prescription or order of a practitioner acting in the course of professional practice.

(b) An offense under this section is:

(1) a Class B misdemeanor if the amount of the

controlled substance possessed is, by aggregate weight, including adulterants or dilutants, two ounces or less;

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

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

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

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

(6) a felony of the first degree punishable by imprisonment in 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 the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, more than 2,000 pounds.

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

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

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

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

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

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

(d) The defense to prosecution provided by Subsection (c) is

not available if:

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

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

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

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

(3) the actor was acquitted in a previous proceeding in which the actor successfully established the defense under that subsection or Section 481.115(g), 481.1151(c), 481.116(f), 481.117(f), 481.118(f), 481.119(c), 481.121(c), 481.125(g), 483.041(e), or 485.031(c); or

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

(e) The defense to prosecution provided by Subsection (c) does not preclude the admission of evidence obtained by law enforcement resulting from the request for emergency medical assistance if that evidence pertains to an offense for which the defense described by Subsection (c) is not available.

Added by Acts 2011, 82nd Leg., R.S., Ch. 170 (S.B. 331), Sec. 5, eff. September 1, 2011.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 808 (H.B. 1694), Sec. 5, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 910 (H.B. 6), Sec. 12, eff. September 1, 2023.

Sec. 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 a felony of the first degree punishable by imprisonment in 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.

(f) It is a defense to prosecution for an offense punishable under Subsection (b) that the actor:

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

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

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

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

(2) was the victim of a possible overdose for which

emergency medical assistance was requested, by the actor or by another person, during an ongoing medical emergency.

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

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

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

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

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

(3) the actor was acquitted in a previous proceeding in which the actor successfully established the defense under that subsection or Section 481.115(g), 481.1151(c), 481.116(f), 481.1161(c), 481.118(f), 481.119(c), 481.121(c), 481.125(g), 483.041(e), or 485.031(c); or

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

(h) The defense to prosecution provided by Subsection (f) does not preclude the admission of evidence obtained by law enforcement resulting from the request for emergency medical assistance if that evidence pertains to an offense for which the defense described by Subsection (f) is not available.

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

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.102, eff. September 1, 2009.

Acts 2021, 87th Leg., R.S., Ch. 808 (H.B. 1694), Sec. 6, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 910 (H.B. 6), Sec. 13, eff. September 1, 2023.

Sec. 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 a felony of the first degree punishable by imprisonment in 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.

(f) It is a defense to prosecution for an offense punishable under Subsection (b) that the actor:

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

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

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

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

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

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

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

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

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

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

(3) the actor was acquitted in a previous proceeding in which the actor successfully established the defense under that subsection or Section 481.115(g), 481.1151(c), 481.116(f), 481.1161(c), 481.117(f), 481.119(c), 481.121(c), 481.125(g), 483.041(e), or 485.031(c); or

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

(h) The defense to prosecution provided by Subsection (f) does not preclude the admission of evidence obtained by law enforcement resulting from the request for emergency medical assistance if that evidence pertains to an offense for which the defense described by Subsection (f) is not available.

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

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.103, eff. September 1, 2009.

Acts 2021, 87th Leg., R.S., Ch. 808 (H.B. 1694), Sec. 7, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 910 (H.B. 6), Sec. 14, eff. September 1, 2023.

Sec. 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, except that the offense is:

(1) a state jail felony, if the person has been previously convicted of an offense under this subsection; or

(2) a felony of the third degree, if the person has been previously convicted two or more times of an offense under this subsection.

(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.

(c) It is a defense to prosecution for an offense under Subsection (b) that the actor:

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

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

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

(C) cooperated with medical assistance and law

enforcement personnel; or

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

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

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

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

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

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

(3) the actor was acquitted in a previous proceeding in which the actor successfully established the defense under that subsection or Section 481.115(g), 481.1151(c), 481.116(f), 481.1161(c), 481.117(f), 481.118(f), 481.121(c), 481.125(g), 483.041(e), or 485.031(c); or

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

(e) The defense to prosecution provided by Subsection (c) does not preclude the admission of evidence obtained by law enforcement resulting from the request for emergency medical assistance if that evidence pertains to an offense for which the defense described by Subsection (c) is not available.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 1188, Sec. 6, eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1030 (H.B. 1424), Sec. 1, eff. September 1, 2015.

Acts 2021, 87th Leg., R.S., Ch. 808 (H.B. 1694), Sec. 8, eff. September 1, 2021.

Sec. 481.1191. CIVIL LIABILITY FOR ENGAGING IN OR AIDING IN PRODUCTION, DISTRIBUTION, SALE, OR PROVISION OF SYNTHETIC SUBSTANCES. (a) In this section:

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

(2) "Synthetic substance" means an artificial substance that produces and is intended by the manufacturer to produce when consumed or ingested an effect similar to or in excess of the effect produced by the consumption or ingestion of a controlled substance or controlled substance analogue, as those terms are defined by Section 481.002.

(b) A person is liable for damages proximately caused by the consumption or ingestion of a synthetic substance by another person if the actor:

(1) produced, distributed, sold, or provided the synthetic substance to the other person; or

(2) aided in the production, distribution, sale, or provision of the synthetic substance to the other person.

(c) A person is strictly liable for all damages caused by the consumption or ingestion of a synthetic substance by a minor if the actor:

(1) produced, distributed, sold, or provided the synthetic substance to the minor; or

(2) aided in the production, distribution, sale, or provision of the synthetic substance to the minor.

(d) A person who is found liable under this section or other law for any amount of damages arising from the consumption or ingestion by another of a synthetic substance is jointly and severally liable with any other person for the entire amount of damages awarded.

(e) Chapter 33, Civil Practice and Remedies Code, does not apply to an action brought under this section or an action brought

under Section 17.50, Business & Commerce Code, based on conduct made actionable under Subsection (f) of this section.

(f) Conduct for which Subsection (b) or (c) creates liability is a false, misleading, or deceptive act or practice or an unconscionable action or course of action for purposes of Section 17.50, Business & Commerce Code, and that conduct is:

(1) actionable under Subchapter E, Chapter 17, Business & Commerce Code; and

(2) subject to any remedy prescribed by that subchapter.

(g) An action brought under this section may include a claim for exemplary damages, which may be awarded in accordance with Section 41.003, Civil Practice and Remedies Code.

(h) Section 41.008, Civil Practice and Remedies Code, does not apply to the award of exemplary damages in an action brought under this section.

(i) Section 41.005, Civil Practice and Remedies Code, does not apply to a claim for exemplary damages in an action brought under this section.

(j) It is an affirmative defense to liability under this section that the synthetic substance produced, distributed, sold, or provided was approved for use, sale, or distribution by the United States Food and Drug Administration or other state or federal regulatory agency with authority to approve a substance for use, sale, or distribution.

(k) It is not a defense to liability under this section that a synthetic substance was in packaging labeled with "Not for Human Consumption" or other wording indicating the substance is not intended to be ingested.

Added by Acts 2017, 85th Leg., R.S., Ch. 861 (H.B. 2612), Sec. 1, eff. September 1, 2017.

Sec. 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) a felony of the first degree punishable by imprisonment in 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, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 2.02, eff. Sept. 1, 1994.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.104, eff. September 1, 2009.

Acts 2023, 88th Leg., R.S., Ch. 910 (H.B. 6), Sec. 15, eff. September 1, 2023.

Sec. 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) a felony of the first degree punishable by imprisonment in 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.

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

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

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

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

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

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

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

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

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

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

(2) the actor has been previously convicted of or

placed on deferred adjudication community supervision for an offense under this chapter or Chapter 483 or 485;

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

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

(e) The defense to prosecution provided by Subsection (c) does not preclude the admission of evidence obtained by law enforcement resulting from the request for emergency medical assistance if that evidence pertains to an offense for which the defense described by Subsection (c) is not available.

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

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.105, eff. September 1, 2009.

Acts 2021, 87th Leg., R.S., Ch. 808 (H.B. 1694), Sec. 9, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 910 (H.B. 6), Sec. 16, eff. September 1, 2023.

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

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 584 (S.B. 768), Sec. 8, eff. September 1, 2021.

Sec. 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 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

(2) 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, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 745, Sec. 28, eff. Jan. 1, 1998; Acts 2003, 78th Leg., ch. 1099, Sec. 10, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 712 (H.B. 1212), Sec. 6, eff. September 1, 2015.

Sec. 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 a registrant; 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, 1-A, or 1-B;

(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, Sec. 7, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 570, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 282 (H.B. 164), Sec. 6, eff. August 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1268 (S.B. 195), Sec. 16, eff. September 1, 2016.

Acts 2021, 87th Leg., R.S., Ch. 584 (S.B. 768), Sec. 9, eff. September 1, 2021.

Sec. 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 (H.B. 164), Sec. 7, eff. August 1, 2005.

Sec. 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.

(g) It is a defense to prosecution for an offense under Subsection (a) that the actor:

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

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

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

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

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

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

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

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

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

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

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

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

(i) The defense to prosecution provided by Subsection (g) does not preclude the admission of evidence obtained by law enforcement resulting from the request for emergency medical assistance if that evidence pertains to an offense for which the defense described by Subsection (g) is not available.

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

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 808 (H.B. 1694), Sec. 10, eff. September 1, 2021.

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

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

(2) barters 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) barters 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) barters 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, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 2.02, eff. Sept. 1, 1994; Acts 1995, 74th Leg., ch. 318, Sec. 37, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 251, Sec. 21, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 712, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.106, eff. September 1, 2009.

Acts 2023, 88th Leg., R.S., Ch. 910 (H.B. 6), Sec. 17, eff. September 1, 2023.

Sec. 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 board under Section 481.074(q) or 481.075.

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

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

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1226 (S.B. 1643), Sec. 3, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1268 (S.B. 195), Sec. 17, eff. September 1, 2016.

Sec. 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 Subchapter C;

(2) manufactures a controlled substance not authorized by the person's Federal Drug Enforcement Administration 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 board;

(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 481.0755(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 the board; 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 or the board, 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, Sec. 2.02, eff. Sept. 1, 1994; Acts 1997, 75th Leg., ch. 745, Sec. 30, eff. Jan. 1, 1998; Acts 2001, 77th Leg., ch. 251, Sec. 22, eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1268 (S.B. 195), Sec. 18, eff. September 1, 2016.

Acts 2019, 86th Leg., R.S., Ch. 1105 (H.B. 2174), Sec. 10, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1166 (H.B. 3284), Sec. 6, eff. September 1, 2019.

Sec. 481.1285. OFFENSE: DIVERSION OF CONTROLLED SUBSTANCE BY REGISTRANTS, DISPENSERS, AND CERTAIN OTHER PERSONS. (a) This section applies only to a registrant, a dispenser, or a person who, pursuant to Section 481.062(a)(1) or (2), is not required to register under this subchapter.

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

(1) converts to the person's own use or benefit a controlled substance to which the person has access by virtue of the person's profession or employment; or

(2) diverts to the unlawful use or benefit of another person a controlled substance to which the person has access by virtue of the person's profession or employment.

(c) An offense under Subsection (b)(1) is a state jail felony. An offense under Subsection (b)(2) is a felony of the third degree.

(d) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1200 (S.B. 158), Sec. 1, eff. September 1, 2011.

Sec. 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 as authorized under the federal Controlled Substances Act (21 U.S.C. Section 801 et seq.);

(2) uses in the course of manufacturing, prescribing, or distributing a controlled substance a Federal Drug Enforcement Administration 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;

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

(D) through the use of a fraudulent electronic 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.

(a-1) A person commits an offense if the person, with intent to obtain a controlled substance or combination of controlled substances that is not medically necessary for the person or an amount of a controlled substance or substances that is not medically necessary for the person, obtains or attempts to obtain from a practitioner a controlled substance or a prescription for a controlled substance by misrepresentation, fraud, forgery, deception, subterfuge, or concealment of a material fact. For purposes of this subsection, a material fact includes whether the person has an existing prescription for a controlled substance issued for the same period of time by another practitioner.

(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.

(d-1) An offense under Subsection (a-1) is:

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

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

(3) a Class A misdemeanor if any 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, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 1100, Sec. 5.02(p), eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 900, Sec. 2.02, eff. Sept. 1, 1994; Acts 1997, 75th Leg., ch. 745, Sec. 31, eff. Jan. 1, 1998; Acts 2001, 77th Leg., ch. 251, Sec. 23, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1200 (S.B. 158), Sec. 2, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1268 (S.B. 195), Sec. 19, eff. September 1, 2016.

Acts 2019, 86th Leg., R.S., Ch. 1105 (H.B. 2174), Sec. 11, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1166 (H.B. 3284), Sec. 7, eff. September 1, 2019.

Sec. 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, Sec. 1, eff. Sept. 1, 1989.

Sec. 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, Sec. 2, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 2.02, eff. Sept. 1, 1994.

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

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

Sec. 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 play stations 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.

(8) "General residential operation" has the meaning assigned by Section 42.002, Human Resources Code.

(b) An offense otherwise punishable as a state jail felony under Section 481.112, 481.1121, 481.1123, 481.113, 481.114, or 481.120 is punishable as a felony of the third degree, an offense otherwise punishable as a felony of the third degree under any of those sections is punishable as a felony of the second 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;

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

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

(c) The minimum term of confinement or imprisonment for an offense otherwise punishable under Section 481.112(c), (d), (e), or (f), 481.1121(b)(2), (3), or (4), 481.1123(b), (c), (d), (e), or (f), 481.113(c), (d), or (e), 481.114(c), (d), or (e), 481.115(c)-(f), 481.1151(b)(2), (3), (4), or (5), 481.116(c), (d), or (e), 481.1161(b)(4), (5), or (6), 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 the premises of a school, the premises of a public or private youth center, or a playground;

(2) on a school bus; or

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

(d) An offense otherwise punishable under Section 481.112(b), 481.1121(b)(1), 481.113(b), 481.114(b), 481.115(b), 481.1151(b)(1), 481.116(b), 481.1161(b)(3), 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, the

premises of a public or private youth center, or a playground;

(2) on a school bus; or

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

(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, the premises of a public or private youth center, or a playground;

(2) on a school bus; or

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

(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, the premises of a public or private youth center, or a playground;

(2) on a school bus; or

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

(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, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 260, Sec. 39, eff. May 30, 1995; Acts 1995, 74th Leg., ch. 318, Sec. 38, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1063, Sec. 9, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 570, Sec. 3, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 452 (H.B. 2467), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 452 (H.B. 2467), Sec. 2, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 170 (S.B. 331), Sec. 6, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 839 (S.B. 236), Sec. 1, eff. September 1, 2015.

Acts 2021, 87th Leg., R.S., Ch. 584 (S.B. 768), Sec. 10, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 16, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 17, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 11.002, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 910 (H.B. 6), Sec. 18, eff. September 1, 2023.

Sec. 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, Sec. 3, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 9.004, eff. September 1, 2005.

Sec. 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 comply with Section 481.077 or 481.0771;

(2) knowingly makes a false statement in a report or record required by Section 481.077 or 481.0771; or

(3) knowingly violates a rule adopted under Section 481.077 or 481.0771.

(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, Sec. 32, eff. Jan. 1, 1998.

Amended by Acts 2001, 77th Leg., ch. 251, Sec. 24, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 282 (H.B. 164), Sec. 8, eff. August 1, 2005.

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 4.005, eff. September 1, 2019.

Sec. 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, Sec. 32, eff. Jan. 1, 1998. Amended by Acts 2001, 77th Leg., ch. 251, Sec. 25, eff. Sept. 1, 2001.

Sec. 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 comply with Section 481.080;

(2) knowingly makes a false statement in a report or record required by Section 481.080; or

(3) knowingly violates a rule adopted under Section 481.080.

(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, Sec. 32, eff. Jan. 1, 1998. Amended by Acts 2001, 77th Leg., ch. 251, Sec. 26, eff. Sept. 1, 2001.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 4.006, eff. September 1, 2019.

Sec. 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, Sec. 32, eff. Jan. 1, 1998. Amended by Acts 2001, 77th Leg., ch. 251, Sec. 27, eff. Sept. 1, 2001.

Sec. 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, 481.1123, 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, Sec. 1, eff. June 14, 2001.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 584 (S.B. 768), Sec. 11, eff. September 1, 2021.

Sec. 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, 481.1123, 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.

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

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

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 584 (S.B. 768), Sec. 12, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 910 (H.B. 6), Sec. 19, eff. September 1, 2023.

Sec. 481.142. USE OF SOCIAL MEDIA PLATFORM FOR DELIVERY OF CONTROLLED SUBSTANCE. (a) "Social media platform" has the meaning assigned by Section 120.001, Business & Commerce Code.

(b) If it is shown on the trial of an offense under Section 481.112, 481.1121, 481.1123, 481.113, 481.114, 481.119, 481.120, or 481.122, involving the delivery of a controlled substance that the defendant used a social media platform in furtherance of the offense, the punishment for the offense is increased to the punishment prescribed by the next higher category of offense, except that the punishment for a felony of the first degree is

increased by five years and the maximum fine for the offense is doubled.

Added by Acts 2025, 89th Leg., R.S., Ch. 858 (S.B. 1833), Sec. 1, eff. September 1, 2025.

SUBCHAPTER E. FORFEITURE

Sec. 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.

(2-a) "Crime laboratory" has the meaning assigned by Article 38.35, Code of Criminal Procedure.

(2-b) "Criminal justice agency" has the meaning assigned by Section 411.082, Government Code, and includes a local government corporation described by Section 411.0011 of that code.

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

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 152 (S.B. 722), Sec. 1, eff. May 21, 2007.

Acts 2021, 87th Leg., R.S., Ch. 603 (S.B. 1125), Sec. 1, eff. September 1, 2021.

Sec. 481.152. SEIZURE, SUMMARY FORFEITURE, AND SUMMARY DESTRUCTION OR OTHER DISPOSITION 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, a criminal justice agency, or a peace officer may summarily destroy the property under the rules of the department or dispose of the property in lieu of destruction as provided by Section 481.161.

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

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 152 (S.B. 722), Sec. 2, eff. May 21, 2007.

Acts 2007, 80th Leg., R.S., Ch. 152 (S.B. 722), Sec. 3, eff. May 21, 2007.

Acts 2021, 87th Leg., R.S., Ch. 603 (S.B. 1125), Sec. 2, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 603 (S.B. 1125), Sec. 3, eff. September 1, 2021.

Sec. 481.153. SEIZURE, SUMMARY FORFEITURE, AND SUMMARY DESTRUCTION OR OTHER DISPOSITION 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, a criminal justice agency, or a peace officer may summarily destroy the property under the rules of the department or dispose of the property in lieu of destruction as provided by Section 481.161.

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

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 152 (S.B. 722), Sec. 4, eff. May 21, 2007.

Acts 2007, 80th Leg., R.S., Ch. 152 (S.B. 722), Sec. 5, eff. May 21, 2007.

Acts 2021, 87th Leg., R.S., Ch. 603 (S.B. 1125), Sec. 4, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 603 (S.B. 1125), Sec. 5, eff. September 1, 2021.

Sec. 481.154. RULES. (a) The director may adopt reasonable rules and procedures, not inconsistent with the provisions of this chapter, concerning:

(1) summary forfeiture and summary destruction of controlled substance property or plants;

(2) establishment and operation of a secure storage area;

(3) delegation by a law enforcement agency head of the authority to access a secure storage area; and

(4) minimum tolerance for and the circumstances of loss or destruction during an investigation.

(b) The rules for the destruction of controlled substance property or plants must require:

(1) more than one person to witness the destruction of the property or plants;

(2) the preparation of an inventory of the property or plants destroyed; and

(3) the preparation of a statement that contains the names of the persons who witness the destruction and the details of

the destruction.

(c) A document prepared under a rule adopted under this section must be completed, retained, and made available for inspection by the director.

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

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 152 (S.B. 722), Sec. 6, eff. May 21, 2007.

Sec. 481.159. DISPOSITION OF CONTROLLED SUBSTANCE PROPERTY OR PLANT. (a) If a district court orders the forfeiture of a controlled substance property or plant under Chapter 59, Code of Criminal Procedure, or under this code, the court shall also order a law enforcement agency or a criminal justice agency to which the law enforcement agency transferred the property or plant for analysis and storage to:

(1) retain the property or plant for official law enforcement purposes, including use in the investigation of offenses under this code;

(2) deliver the property or plant to a government agency for official purposes;

(3) deliver the property or plant to a person authorized by the court to receive it;

(4) deliver the property or plant to a person authorized by the director to receive it; or

(5) destroy the property or plant that is not otherwise disposed of in the manner prescribed by this subchapter.

(b) The district court may not require the department to receive, analyze, or retain a controlled substance property or plant forfeited to a law enforcement agency other than the department.

(c) In order to ensure that a controlled substance property or plant is not diluted, substituted, diverted, or tampered with while being used in the investigation of offenses under this code, law enforcement agencies using the property or plant for this purpose shall:

(1) employ a qualified individual to conduct qualitative and quantitative analyses of the property or plant before and after their use in an investigation;

(2) maintain the property or plant in a secure storage area accessible only to the law enforcement agency head and the individual responsible for analyzing, preserving, and maintaining security over the property or plant; and

(3) maintain a log documenting:

(A) the date of issue, date of return, type, amount, and concentration of property or plant used in an investigation; and

(B) the signature and the printed or typed name of the peace officer to whom the property or plant was issued and the signature and the printed or typed name of the individual issuing the property or plant.

(d) A law enforcement agency may contract with another law enforcement agency to provide security that complies with Subsection (c) for controlled substance property or plants.

(e) A law enforcement agency may adopt a written policy with more stringent requirements than those required by Subsection (c). The director may enter and inspect, in accordance with Section 481.181, a location at which an agency maintains records or controlled substance property or plants as required by this section.

(f) If a law enforcement agency uses a controlled substance property or plant in the investigation of an offense under this code and the property or plant has been transported across state lines before the forfeiture, the agency shall cooperate with a federal agency in the investigation if requested to do so by the federal agency.

(g) Under the rules of the department, a law enforcement agency head may grant to another person access to a secure storage facility under Subsection (c)(2).

(h) A county, justice, or municipal court may order forfeiture of a controlled substance property or plant, unless the lawful possession of and title to the property or plant can be ascertained. If the court determines that a person had lawful

possession of and title to the controlled substance property or plant before it was seized, the court shall order the controlled substance property or plant returned to the person, if the person so desires. The court may only order the destruction of a controlled substance property or plant that is not otherwise disposed of in the manner prescribed by Section 481.160.

(i) If a controlled substance property or plant seized under this chapter was forfeited to an agency for the purpose of destruction or disposition under Section 481.161 in lieu of destruction or for any purpose other than investigation, the property or plant may not be used in an investigation unless a district court orders disposition under this section and permits the use of the property or plant in the investigation.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., 1st C.S., ch. 12, Sec. 5(a), eff. Oct. 18, 1989; Acts 1991, 72nd Leg., ch. 141, Sec. 1, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1268 (S.B. 195), Sec. 20, eff. September 1, 2016.

Acts 2021, 87th Leg., R.S., Ch. 603 (S.B. 1125), Sec. 6, eff. September 1, 2021.

Sec. 481.160. DISPOSITION OF EXCESS QUANTITIES. (a) If a controlled substance property or plant is forfeited under this code or under Chapter 59, Code of Criminal Procedure, the law enforcement agency that seized the property or plant or to which the property or plant is forfeited or a criminal justice agency to which the law enforcement agency transferred the property or plant for analysis and storage may summarily destroy the property or plant without a court order, or otherwise dispose of the property or plant in lieu of destruction in accordance with Section 481.161, before the disposition of a case arising out of the forfeiture if the agency ensures that:

(1) at least five random and representative samples are taken from the total amount of the property or plant and a sufficient quantity is preserved to provide for discovery by parties entitled to discovery;

(2) photographs are taken that reasonably depict the total amount of the property or plant; and

(3) the gross weight or liquid measure of the property or plant is determined, either by actually weighing or measuring the property or plant or by estimating its weight or measurement after making dimensional measurements of the total amount seized.

(b) If the property consists of a single container of liquid, taking and preserving one representative sample complies with Subsection (a)(1).

(c) A representative sample, photograph, or record made under this section is admissible in civil or criminal proceedings in the same manner and to the same extent as if the total quantity of the suspected controlled substance property or plant was offered in evidence, regardless of whether the remainder of the property or plant has been destroyed or otherwise disposed of. An inference or presumption of spoliation does not apply to a property or plant destroyed or otherwise disposed of under this section.

(d) If hazardous waste, residuals, contaminated glassware, associated equipment, or by-products from illicit chemical laboratories or similar operations that create a health or environmental hazard or are not capable of being safely stored are forfeited, those items may be disposed of under Subsection (a) or may be seized by and summarily forfeited to a law enforcement agency and destroyed by the law enforcement agency or by a criminal justice agency to which the law enforcement agency transferred the items for analysis and storage without a court order before the disposition of a case arising out of the forfeiture if current environmental protection standards are followed.

(e) A law enforcement agency seizing and destroying or disposing of materials described in Subsection (d) shall ensure that photographs are taken that reasonably depict the total amount of the materials seized and the manner in which the materials were physically arranged or positioned before seizure.

(f) Repealed by Acts 2005, 79th Leg., Ch. 1224, Sec. 19(2), eff. September 1, 2005.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 1100, Sec. 5.02(r), eff. Sept. 1, 1989;

Acts 1991, 72nd Leg., ch. 14, Sec. 199, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 141, Sec. 1, eff. Sept; 1, 1991; Acts 1991, 72nd Leg., ch. 285, Sec. 2, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 745, Sec. 33, eff. Jan. 1, 1998; Acts 2001, 77th Leg., ch. 251, Sec. 29, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1224 (H.B. 1068), Sec. 19(2), eff. September 1, 2005.

Acts 2021, 87th Leg., R.S., Ch. 603 (S.B. 1125), Sec. 7, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 603 (S.B. 1125), Sec. 8, eff. September 1, 2021.

Sec. 481.161. DISPOSITION OF CONTROLLED SUBSTANCE PROPERTY OR PLANT IN LIEU OF DESTRUCTION. (a) Controlled substance property or plants subject to summary destruction or ordered destroyed by a court may be disposed of in accordance with this section.

(b) A law enforcement agency or criminal justice agency may transfer the controlled substance property or plants to a crime laboratory to be used for the purposes of laboratory research, testing results validation, and training of analysts.

(c) The crime laboratory to which the controlled substance property or plants are transferred under Subsection (b) shall destroy or otherwise properly dispose of any unused quantities of the controlled substance property or plants.

(d) This section does not apply to evidence described by Section 481.160(d).

(e) The director may adopt rules to implement this section.

Added by Acts 2021, 87th Leg., R.S., Ch. 603 (S.B. 1125), Sec. 9, eff. September 1, 2021.

SUBCHAPTER F. INSPECTIONS, EVIDENCE, AND MISCELLANEOUS LAW ENFORCEMENT PROVISIONS

Sec. 481.181. INSPECTIONS. (a) The director may enter controlled premises at any reasonable time and inspect the premises

and items described by Subsection (b) in order to inspect, copy, and verify the correctness of a record, report, or other document required to be made or kept under this chapter and to perform other functions under this chapter. For purposes of this subsection, "reasonable time" means any time during the normal business hours of the person or activity regulated under this chapter or any time an activity regulated under this chapter is occurring on the premises. The director shall:

(1) state the purpose of the entry;

(2) display to the owner, operator, or agent in charge of the premises appropriate credentials; and

(3) deliver to the owner, operator, or agent in charge of the premises a written notice of inspection authority.

(b) The director may:

(1) inspect and copy a record, report, or other document required to be made or kept under this chapter;

(2) inspect, within reasonable limits and in a reasonable manner, the controlled premises and all pertinent equipment, finished and unfinished drugs, other substances, and materials, containers, labels, records, files, papers, processes, controls, and facilities as appropriate to verify a record, report, or document required to be kept under this chapter or to administer this chapter;

(3) examine and inventory stock of a controlled substance and obtain samples of the controlled substance;

(4) examine a hypodermic syringe, needle, pipe, or other instrument, device, contrivance, equipment, control, container, label, or facility relating to a possible violation of this chapter; and

(5) examine a material used, intended to be used, or capable of being used to dilute or adulterate a controlled substance.

(c) Unless the owner, operator, or agent in charge of the controlled premises consents in writing, the director may not inspect:

(1) financial data;

(2) sales data other than shipment data; or

(3) pricing data.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 1099, Sec. 11, eff. Sept. 1, 2003.

Sec. 481.182. EVIDENTIARY RULES RELATING TO OFFER OF DELIVERY. For the purpose of establishing a delivery under this chapter, proof of an offer to sell must be corroborated by:

(1) a person other than the person to whom the offer is made; or

(2) evidence other than a statement of the person to whom the offer is made.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 1099, Sec. 12, eff. Sept. 1, 2003.

Sec. 481.183. EVIDENTIARY RULES RELATING TO DRUG PARAPHERNALIA. (a) In considering whether an item is drug paraphernalia under this chapter, a court or other authority shall consider, in addition to all other logically relevant factors, and subject to rules of evidence:

(1) statements by an owner or person in control of the object concerning its use;

(2) the existence of any residue of a controlled substance on the object;

(3) direct or circumstantial evidence of the intent of an owner or other person in control of the object to deliver it to a person whom the person knows or should reasonably know intends to use the object to facilitate a violation of this chapter;

(4) oral or written instructions provided with the object concerning its use;

(5) descriptive material accompanying the object that explains or depicts its use;

(6) the manner in which the object is displayed for sale;

(7) whether the owner or person in control of the object is a supplier of similar or related items to the community, such as a licensed distributor or dealer of tobacco products;

(8) direct or circumstantial evidence of the ratio of

sales of the object to the total sales of the business enterprise;

(9) the existence and scope of uses for the object in the community;

(10) the physical design characteristics of the item; and

(11) expert testimony concerning the item's use.

(b) The innocence of an owner or other person in charge of an object as to a direct violation of this chapter does not prevent a finding that the object is intended or designed for use as drug paraphernalia.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 1099, Sec. 13, eff. Sept. 1, 2003.

Sec. 481.184. BURDEN OF PROOF; LIABILITIES. (a) The state is not required to negate an exemption or exception provided by this chapter in a complaint, information, indictment, or other pleading or in any trial, hearing, or other proceeding under this chapter. A person claiming the benefit of an exemption or exception has the burden of going forward with the evidence with respect to the exemption or exception.

(b) In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under this chapter, the person is presumed not to be the holder of the registration or form. The presumption is subject to rebuttal by a person charged with an offense under this chapter.

(c) This chapter does not impose a liability on an authorized state, county, or municipal officer engaged in the lawful performance of official duties.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 1099, Sec. 14, eff. Sept. 1, 2003.

Sec. 481.185. ARREST REPORTS. (a) Each law enforcement agency in this state shall file monthly with the director a report of all arrests made for drug offenses and quantities of controlled substances seized during the preceding month. The agency shall make the report on a form provided by the director and shall provide the information required by the form.

(b) The director shall publish an annual summary of all drug arrests and controlled substances seized in the state.

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

Sec. 481.186. COOPERATIVE ARRANGEMENTS. (a) The director shall cooperate with federal and state agencies in discharging the director's responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances. The director may:

(1) arrange for the exchange of information among government officials concerning the use and abuse of controlled substances;

(2) cooperate in and coordinate training programs concerning controlled substances law enforcement at local and state levels;

(3) cooperate with the Federal Drug Enforcement Administration and state agencies by establishing a centralized unit to accept, catalog, file, and collect statistics, including records on drug-dependent persons and other controlled substance law offenders in this state and, except as provided by Section 481.068, make the information available for federal, state, and local law enforcement purposes; and

(4) conduct programs of eradication aimed at destroying wild or illegal growth of plant species from which controlled substances may be extracted.

(b) In the exercise of regulatory functions under this chapter, the director may rely on results, information, and evidence relating to the regulatory functions of this chapter received from the Federal Drug Enforcement Administration or a state agency.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 1099, Sec. 15, eff. Sept. 1, 2003.

SUBCHAPTER G. THERAPEUTIC RESEARCH PROGRAM

Sec. 481.201. RESEARCH PROGRAM; REVIEW BOARD. (a) The executive commissioner may establish a controlled substance

therapeutic research program for the supervised use of tetrahydrocannabinols for medical and research purposes to be conducted in accordance with this chapter.

(b) If the executive commissioner establishes the program, the executive commissioner shall create a research program review board. The review board members are appointed by the executive commissioner and serve at the will of the executive commissioner.

(c) The review board shall be composed of:

(1) a licensed physician certified by the American Board of Ophthalmology;

(2) a licensed physician certified by the American Board of Internal Medicine and certified in the subspecialty of medical oncology;

(3) a licensed physician certified by the American Board of Psychiatry;

(4) a licensed physician certified by the American Board of Surgery;

(5) a licensed physician certified by the American Board of Radiology; and

(6) a licensed attorney with experience in law pertaining to the practice of medicine.

(d) Members serve without compensation but are entitled to reimbursement for actual and necessary expenses incurred in performing official duties.

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1232, eff. April 2, 2015.

Sec. 481.202. REVIEW BOARD POWERS AND DUTIES. (a) The review board shall review research proposals submitted and medical case histories of persons recommended for participation in a research program and determine which research programs and persons are most suitable for the therapy and research purposes of the program. The review board shall approve the research programs, certify program participants, and conduct periodic reviews of the research and participants.

(b) The review board, after approval of the executive commissioner, may seek authorization to expand the research program to include diseases not covered by this subchapter.

(c) The review board shall maintain a record of all persons in charge of approved research programs and of all persons who participate in the program as researchers or as patients.

(d) The executive commissioner may terminate the distribution of tetrahydrocannabinols and their derivatives to a research program as the executive commissioner determines necessary.

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1233, eff. April 2, 2015.

Sec. 481.203. PATIENT PARTICIPATION. (a) A person may not be considered for participation as a recipient of tetrahydrocannabinols and their derivatives through a research program unless the person is recommended to a person in charge of an approved research program and the review board by a physician who is licensed by the Texas Medical Board and is attending the person.

(b) A physician may not recommend a person for the research program unless the person:

(1) has glaucoma or cancer;

(2) is not responding to conventional treatment for glaucoma or cancer or is experiencing severe side effects from treatment; and

(3) has symptoms or side effects from treatment that may be alleviated by medical use of tetrahydrocannabinols or their derivatives.

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1234, eff. April 2, 2015.

Sec. 481.204. ACQUISITION AND DISTRIBUTION OF CONTROLLED SUBSTANCES. (a) The executive commissioner shall acquire the

tetrahydrocannabinols and their derivatives for use in the research program by contracting with the National Institute on Drug Abuse to receive tetrahydrocannabinols and their derivatives that are safe for human consumption according to the regulations adopted by the institute, the United States Food and Drug Administration, and the Federal Drug Enforcement Administration.

(b) The executive commissioner shall supervise the distribution of the tetrahydrocannabinols and their derivatives to program participants. The tetrahydrocannabinols and derivatives of tetrahydrocannabinols may be distributed only by the person in charge of the research program to physicians caring for program participant patients, under rules adopted by the executive commissioner in such a manner as to prevent unauthorized diversion of the substances and in compliance with all requirements of the Federal Drug Enforcement Administration. The physician is responsible for dispensing the substances to patients.

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1235, eff. April 2, 2015.

Sec. 481.205. RULES; REPORTS. (a) The executive commissioner shall adopt rules necessary for implementing the research program.

(b) If the executive commissioner establishes a program under this subchapter, the commissioner shall publish a report not later than January 1 of each odd-numbered year on the medical effectiveness of the use of tetrahydrocannabinols and their derivatives and any other medical findings of the research program.

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1236, eff. April 2, 2015.

SUBCHAPTER H. ADMINISTRATIVE PENALTY

Sec. 481.301. IMPOSITION OF PENALTY. The department may

impose an administrative penalty on a person who violates Section 481.067, 481.077, 481.0771, or 481.080 or a rule or order adopted under any of those sections.

Added by Acts 2007, 80th Leg., R.S., Ch. 1391 (S.B. 1879), Sec. 5, eff. September 1, 2007.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1268 (S.B. 195), Sec. 21, eff. September 1, 2016.

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 4.007, eff. September 1, 2019.

Sec. 481.302. AMOUNT OF PENALTY. (a) The amount of the penalty may not exceed $1,000 for each violation, and each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. The total amount of the penalty assessed for a violation continuing or occurring on separate days under this subsection may not exceed $20,000.

(b) The amount shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) the threat to health or safety caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter a future violation;

(5) whether the violator demonstrated good faith, including when applicable whether the violator made good faith efforts to correct the violation; and

(6) any other matter that justice may require.

Added by Acts 2007, 80th Leg., R.S., Ch. 1391 (S.B. 1879), Sec. 5, eff. September 1, 2007.

Sec. 481.303. REPORT AND NOTICE OF VIOLATION AND PENALTY. (a) If the department initially determines that a violation occurred, the department shall give written notice of the report to the person by certified mail, registered mail, personal delivery, or another manner of delivery that records the person's receipt of the notice.

(b) The notice must:

(1) include a brief summary of the alleged violation;

(2) state the amount of the recommended penalty; and

(3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

Added by Acts 2007, 80th Leg., R.S., Ch. 1391 (S.B. 1879), Sec. 5, eff. September 1, 2007.

Sec. 481.304. PENALTY TO BE PAID OR INFORMAL HEARING REQUESTED. (a) Before the 21st day after the date the person receives notice under Section 481.303, the person in writing may:

(1) accept the determination and recommended penalty; or

(2) make a request for an informal hearing held by the department on the occurrence of the violation, the amount of the penalty, or both.

(b) At the conclusion of an informal hearing requested under Subsection (a), the department may modify the amount of the recommended penalty.

(c) If the person accepts the determination and recommended penalty, including any modification of the amount, or if the person fails to timely respond to the notice, the director by order shall approve the determination and impose the recommended penalty.

Added by Acts 2007, 80th Leg., R.S., Ch. 1391 (S.B. 1879), Sec. 5, eff. September 1, 2007.

Sec. 481.305. FORMAL HEARING. (a) The person may request a formal hearing only after participating in an informal hearing.

(b) The request must be submitted in writing and received by the department before the 21st day after the date the person is notified of the decision from the informal hearing.

(c) If a timely request for a formal hearing is not received, the director by order shall approve the determination from the informal hearing and impose the recommended penalty.

(d) If the person timely requests a formal hearing, the director shall refer the matter to the State Office of

Administrative Hearings, which shall promptly set a hearing date and give written notice of the time and place of the hearing to the director and to the person. An administrative law judge of the State Office of Administrative Hearings shall conduct the hearing.

(e) The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the director a proposal for a decision about the occurrence of the violation and the amount of any proposed penalty.

(f) If a penalty is proposed under Subsection (e), the administrative law judge shall include in the proposal for a decision a finding setting out costs, fees, expenses, and reasonable and necessary attorney's fees incurred by the state in bringing the proceeding. The director may adopt the finding and impose the costs, fees, and expenses on the person as part of the final order entered in the proceeding.

Added by Acts 2007, 80th Leg., R.S., Ch. 1391 (S.B. 1879), Sec. 5, eff. September 1, 2007.

Sec. 481.306. DECISION. (a) Based on the findings of fact, conclusions of law, and proposal for a decision, the director by order may:

(1) find that a violation occurred and impose a penalty; or

(2) find that a violation did not occur.

(b) The notice of the director's order under Subsection (a) that is sent to the person in the manner provided by Chapter 2001, Government Code, must include a statement of the right of the person to judicial review of the order.

Added by Acts 2007, 80th Leg., R.S., Ch. 1391 (S.B. 1879), Sec. 5, eff. September 1, 2007.

Sec. 481.307. OPTIONS FOLLOWING DECISION: PAY OR APPEAL. Before the 31st day after the date the order under Section 481.306 that imposes an administrative penalty becomes final, the person shall:

(1) pay the penalty; or

(2) file a petition for judicial review of the order

contesting the occurrence of the violation, the amount of the penalty, or both.

Added by Acts 2007, 80th Leg., R.S., Ch. 1391 (S.B. 1879), Sec. 5, eff. September 1, 2007.

Sec. 481.308. STAY OF ENFORCEMENT OF PENALTY. (a) Within the period prescribed by Section 481.307, a person who files a petition for judicial review may:

(1) stay enforcement of the penalty by:

(A) paying the penalty to the court for placement in an escrow account; or

(B) giving the court a supersedeas bond approved by the court that:

(i) is for the amount of the penalty; and

(ii) is effective until all judicial review of the order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) sending a copy of the affidavit to the director by certified mail.

(b) Following receipt of a copy of an affidavit under Subsection (a)(2), the director may file with the court, before the sixth day after the date of receipt, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the penalty or to give a supersedeas bond.

Added by Acts 2007, 80th Leg., R.S., Ch. 1391 (S.B. 1879), Sec. 5, eff. September 1, 2007.

Sec. 481.309. COLLECTION OF PENALTY. (a) If the person does not pay the penalty and the enforcement of the penalty is not

stayed, the penalty may be collected.

(b) The attorney general may sue to collect the penalty.

Added by Acts 2007, 80th Leg., R.S., Ch. 1391 (S.B. 1879), Sec. 5, eff. September 1, 2007.

Sec. 481.310. DECISION BY COURT. (a) If the court sustains the finding that a violation occurred, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty.

(b) If the court does not sustain the finding that a violation occurred, the court shall order that a penalty is not owed.

Added by Acts 2007, 80th Leg., R.S., Ch. 1391 (S.B. 1879), Sec. 5, eff. September 1, 2007.

Sec. 481.311. REMITTANCE OF PENALTY AND INTEREST. (a) If the person paid the penalty and if the amount of the penalty is reduced or the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, that the appropriate amount plus accrued interest be remitted to the person before the 31st day after the date that the judgment of the court becomes final.

(b) The interest accrues at the rate charged on loans to depository institutions by the New York Federal Reserve Bank.

(c) The interest shall be paid for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted.

Added by Acts 2007, 80th Leg., R.S., Ch. 1391 (S.B. 1879), Sec. 5, eff. September 1, 2007.

Sec. 481.312. RELEASE OF BOND. (a) If the person gave a supersedeas bond and the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, the release of the bond.

(b) If the person gave a supersedeas bond and the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the reduced amount.

Added by Acts 2007, 80th Leg., R.S., Ch. 1391 (S.B. 1879), Sec. 5, eff. September 1, 2007.

Sec. 481.313. ADMINISTRATIVE PROCEDURE. A proceeding to impose the penalty is considered to be a contested case under Chapter 2001, Government Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 1391 (S.B. 1879), Sec. 5, eff. September 1, 2007.

Sec. 481.314. DISPOSITION OF PENALTY. The department shall send any amount collected as a penalty under this subchapter to the comptroller for deposit to the credit of the general revenue fund.

Added by Acts 2007, 80th Leg., R.S., Ch. 1391 (S.B. 1879), Sec. 5, eff. September 1, 2007.

SUBCHAPTER I. INTERAGENCY PRESCRIPTION MONITORING WORK GROUP

Sec. 481.351. INTERAGENCY PRESCRIPTION MONITORING WORK GROUP. The interagency prescription monitoring work group is created to evaluate the effectiveness of prescription monitoring under this chapter and offer recommendations to improve the effectiveness and efficiency of recordkeeping and other functions related to the regulation of dispensing controlled substances by prescription.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1226 (S.B. 1643), Sec. 4, eff. September 1, 2013.

Sec. 481.352. MEMBERS. The work group is composed of:

(1) the executive director of the board or the executive director's designee, who serves as chair of the work group;

(2) the commissioner of state health services or the commissioner's designee;

(3) the executive director of the Texas Medical Board or the executive director's designee;

(4) the executive director of the Texas Board of Nursing or the executive director's designee;

(5) the executive director of the Texas Physician Assistant Board or the executive director's designee;

(6) the executive director of the State Board of Dental Examiners or the executive director's designee;

(7) the executive director of the Texas Optometry Board or the executive director's designee;

(8) the executive director of the Texas Department of Licensing and Regulation or the executive director's designee;

(9) the executive director of the State Board of Veterinary Medical Examiners or the executive director's designee; and

(10) a medical examiner appointed by the board.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1226 (S.B. 1643), Sec. 4, eff. September 1, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1268 (S.B. 195), Sec. 22, eff. June 20, 2015.

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 61, eff. September 1, 2017.

Sec. 481.353. MEETINGS. (a) The work group shall meet when necessary as determined by the board.

(b) The work group is subject to Chapter 551, Government Code.

(c) The work group shall proactively engage stakeholders and solicit and take into account input from the public.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1226 (S.B. 1643), Sec. 4, eff. September 1, 2013.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 965 (S.B. 683), Sec. 4, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1144 (H.B. 2847), Sec. 4.004, eff. September 1, 2019.

Sec. 481.354. REPORT. Not later than December 1 of each even-numbered year, the work group shall submit to the legislature its recommendations relating to prescription monitoring.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1226 (S.B. 1643), Sec. 4, eff. September 1, 2013.