

1-1 By: Taylor of Collin S.B. No. 1582  
 1-2 (In the Senate - Filed March 12, 2015; March 23, 2015, read  
 1-3 first time and referred to Committee on Health and Human Services;  
 1-4 April 30, 2015, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 30, 2015,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

|      | Yea | Nay | Absent | PNV |
|------|-----|-----|--------|-----|
| 1-8  |     |     |        |     |
| 1-9  | X   |     |        |     |
| 1-10 | X   |     |        |     |
| 1-11 | X   |     |        |     |
| 1-12 | X   |     |        |     |
| 1-13 | X   |     |        |     |
| 1-14 | X   |     |        |     |
| 1-15 | X   |     |        |     |
| 1-16 | X   |     |        |     |
| 1-17 | X   |     |        |     |

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1582 By: Taylor of Collin

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to the scheduling of controlled substances and the  
 1-22 designation and emergency scheduling of certain substances as  
 1-23 hazardous controlled substances; creating criminal offenses.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. This Act shall be known as the Montana Brown Act.

1-26 SECTION 2. Section [481.036\(c\)](#), Health and Safety Code, is  
 1-27 amended to read as follows:

1-28 (c) An action by the commissioner that establishes or  
 1-29 modifies a schedule under this subchapter may take effect not  
 1-30 earlier than the 21st day after the date on which the schedule or  
 1-31 modification is published in the Texas Register unless an emergency  
 1-32 exists that necessitates earlier action to avoid an imminent hazard  
 1-33 to the public safety. The commissioner may determine that an  
 1-34 imminent hazard to the public safety exists if the commissioner  
 1-35 makes findings with respect to each of the factors listed in  
 1-36 Sections [481.034\(d\)\(4\)](#), (5), and (6) that indicate that the  
 1-37 substance poses a danger to health and safety if not immediately  
 1-38 controlled.

1-39 SECTION 3. Subtitle C, Title 6, Health and Safety Code, is  
 1-40 amended by adding Chapter 488 to read as follows:

1-41 CHAPTER 488. HAZARDOUS CONTROLLED SUBSTANCE EMERGENCY SCHEDULING  
 1-42 Sec. 488.001. DEFINITIONS. In this chapter, "commissioner"  
 1-43 and "controlled substance" have the meanings assigned by Chapter  
 1-44 481.

1-45 Sec. 488.002. DESIGNATION OF HAZARDOUS CONTROLLED  
 1-46 SUBSTANCE; CRITERIA. When the commissioner under Section [481.032](#)  
 1-47 modifies Schedule I to add a controlled substance, the commissioner  
 1-48 at that time may designate the substance as a hazardous controlled  
 1-49 substance if the commissioner:

1-50 (1) finds that the substance:

1-51 (A) is chemically similar in structure or effect  
 1-52 to a controlled substance listed in a penalty group under  
 1-53 Subchapter D, Chapter 481; or

1-54 (B) poses an imminent danger to life or health;  
 1-55 and

1-56 (2) receives approval for the hazardous controlled  
 1-57 substance designation from the governor, lieutenant governor, and  
 1-58 attorney general.

1-59 Sec. 488.003. EMERGENCY SCHEDULING. (a) The commissioner  
 1-60 shall publish a list of the controlled substances that are

2-1 designated as hazardous controlled substances by filing a certified  
2-2 copy of the list with the secretary of state for publication in the  
2-3 Texas Register at the time the commissioner files a copy of the  
2-4 schedules under Section 481.036.

2-5 (b) The designation of a substance as a hazardous controlled  
2-6 substance takes effect on the date the modification that added the  
2-7 substance to Schedule I takes effect according to Section  
2-8 481.036(c).

2-9 Sec. 488.004. OFFENSE: MANUFACTURE OR DELIVERY OF  
2-10 HAZARDOUS CONTROLLED SUBSTANCE. (a) A person commits an offense  
2-11 if the person knowingly manufactures, delivers, or possesses with  
2-12 intent to deliver a controlled substance designated as a hazardous  
2-13 controlled substance under this chapter.

2-14 (b) An offense under Subsection (a) is a Class A misdemeanor  
2-15 if the amount of the controlled substance to which the offense  
2-16 applies is, by aggregate weight, including adulterants or  
2-17 dilutants, less than 28 grams.

2-18 (c) An offense under Subsection (a) is a state jail felony  
2-19 if the amount of the controlled substance to which the offense  
2-20 applies is, by aggregate weight, including adulterants or  
2-21 dilutants, 28 grams or more but less than 200 grams.

2-22 (d) An offense under Subsection (a) is a felony of the third  
2-23 degree if the amount of the controlled substance to which the  
2-24 offense applies is, by aggregate weight, including adulterants or  
2-25 dilutants, 200 grams or more but less than 400 grams.

2-26 (e) An offense under Subsection (a) is a felony of the  
2-27 second degree if the amount of the controlled substance to which the  
2-28 offense applies is, by aggregate weight, including adulterants or  
2-29 dilutants, 400 grams or more.

2-30 Sec. 488.005. OFFENSE: POSSESSION OF HAZARDOUS CONTROLLED  
2-31 SUBSTANCE. (a) A person commits an offense if the person  
2-32 knowingly possesses a controlled substance designated as a  
2-33 hazardous controlled substance under this chapter.

2-34 (b) An offense under Subsection (a) is a Class B misdemeanor  
2-35 if the amount of the controlled substance possessed is, by  
2-36 aggregate weight, including adulterants or dilutants, less than 28  
2-37 grams.

2-38 (c) An offense under Subsection (a) is a Class A misdemeanor  
2-39 if the amount of the controlled substance possessed is, by  
2-40 aggregate weight, including adulterants or dilutants, 28 grams or  
2-41 more but less than 200 grams.

2-42 (d) An offense under Subsection (a) is a state jail felony  
2-43 if the amount of the controlled substance possessed is, by  
2-44 aggregate weight, including adulterants or dilutants, 200 grams or  
2-45 more but less than 400 grams.

2-46 (e) An offense under Subsection (a) is a felony of the third  
2-47 degree if the amount of the controlled substance possessed is, by  
2-48 aggregate weight, including adulterants or dilutants, 400 grams or  
2-49 more.

2-50 Sec. 488.006. EFFECT ON OTHER PROVISIONS OF SUBTITLE. If  
2-51 conduct that is an offense under this chapter is also an offense  
2-52 under another provision of this subtitle, the actor may be  
2-53 prosecuted under either this chapter or the other provision or  
2-54 both.

2-55 Sec. 488.007. APPLICABILITY. This chapter does not apply  
2-56 to a controlled substance that is listed in a penalty group under  
2-57 Subchapter D, Chapter 481.

2-58 Sec. 488.008. EXPIRATION. The designation of a controlled  
2-59 substance as a hazardous controlled substance expires on September  
2-60 1 of each odd-numbered year for any designation in effect before  
2-61 January 1 of that year.

2-62 SECTION 4. This Act takes effect September 1, 2015.

2-63 \* \* \* \* \*