

1-1 By: Hughes S.B. No. 2176
 1-2 (In the Senate - Filed March 10, 2017; March 29, 2017, read
 1-3 first time and referred to Committee on Criminal Justice;
 1-4 April 18, 2017, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 7, Nays 0; April 18, 2017,
 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. 2176 By: Whitmire

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

1-21 relating to the placement of certain substances in Penalty Groups 1
 1-22 and 3 of the Texas Controlled Substances Act for the purposes of
 1-23 prosecution of criminal offenses involving those substances.

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

1-25 SECTION 1. Section 481.102, Health and Safety Code, is
 1-26 amended to read as follows:

1-27 Sec. 481.102. PENALTY GROUP 1. Penalty Group 1 consists of:

1-28 (1) the following opiates, including their isomers,
 1-29 esters, ethers, salts, and salts of isomers, esters, and ethers,
 1-30 unless specifically excepted, if the existence of these isomers,
 1-31 esters, ethers, and salts is possible within the specific chemical
 1-32 designation:

- 1-33 Alfentanil;
- 1-34 Allylprodine;
- 1-35 Alphacetylmethadol;
- 1-36 Benzethidine;
- 1-37 Betaprodine;
- 1-38 Clonitazene;
- 1-39 Diampromide;
- 1-40 Diethylthiambutene;
- 1-41 Difenoxy not listed in Penalty Group 3 or 4;
- 1-42 Dimenoxadol;
- 1-43 Dimethylthiambutene;
- 1-44 Dioxaphetyl butyrate;
- 1-45 Dipipanone;
- 1-46 Ethylmethylthiambutene;
- 1-47 Etonitazene;
- 1-48 Etoxadine;
- 1-49 Furethidine;
- 1-50 Hydroxypethidine;
- 1-51 Ketobemidone;
- 1-52 Levophenacymorphan;
- 1-53 Meprodine;
- 1-54 Methadol;
- 1-55 Moramide;
- 1-56 Morpheridine;
- 1-57 Noracymethadol;
- 1-58 Norlevorphanol;
- 1-59 Normethadone;
- 1-60 Norpipanone;

- 2-1 Phenadoxone;
- 2-2 Phenampromide;
- 2-3 Phenomorphan;
- 2-4 Phenoperidine;
- 2-5 Piritramide;
- 2-6 Proheptazine;
- 2-7 Properidine;
- 2-8 Propiram;
- 2-9 Sufentanil;
- 2-10 Tilidine; and
- 2-11 Trimeperidine;
- 2-12 (2) the following opium derivatives, their salts,
- 2-13 isomers, and salts of isomers, unless specifically excepted, if the
- 2-14 existence of these salts, isomers, and salts of isomers is possible
- 2-15 within the specific chemical designation:
- 2-16 Acetorphine;
- 2-17 Acetyldihydrocodeine;
- 2-18 Benzylmorphine;
- 2-19 Codeine methylbromide;
- 2-20 Codeine-N-Oxide;
- 2-21 Cyprenorphine;
- 2-22 Desomorphine;
- 2-23 Dihydromorphine;
- 2-24 Drotebanol;
- 2-25 Etorphine, except hydrochloride salt;
- 2-26 Heroin;
- 2-27 Hydromorphenol;
- 2-28 Methyldesorphine;
- 2-29 Methyldihydromorphine;
- 2-30 Monoacetylmorphine;
- 2-31 Morphine methylbromide;
- 2-32 Morphine methylsulfonate;
- 2-33 Morphine-N-Oxide;
- 2-34 Myrophine;
- 2-35 Nicocodeine;
- 2-36 Nicomorphine;
- 2-37 Normorphine;
- 2-38 Pholcodine; and
- 2-39 Thebacon;
- 2-40 (3) the following substances, however produced,
- 2-41 except those narcotic drugs listed in another group:
- 2-42 (A) Opium and opiate not listed in Penalty Group
- 2-43 3 or 4, and a salt, compound, derivative, or preparation of opium or
- 2-44 opiate, other than thebaine derived butorphanol, nalmeferne and its
- 2-45 salts, naloxone and its salts, and naltrexone and its salts, but
- 2-46 including:
- 2-47 Codeine not listed in Penalty Group 3 or 4;
- 2-48 Dihydroetorphine;
- 2-49 Ethylmorphine not listed in Penalty Group 3
- 2-50 or 4;
- 2-51 Granulated opium;
- 2-52 Hydrocodone not listed in Penalty Group 3;
- 2-53 Hydromorphone;
- 2-54 Metopon;
- 2-55 Morphine not listed in Penalty Group 3;
- 2-56 Opium extracts;
- 2-57 Opium fluid extracts;
- 2-58 Oripavine;
- 2-59 Oxycodone;
- 2-60 Oxymorphone;
- 2-61 Powdered opium;
- 2-62 Raw opium;
- 2-63 Thebaine; and
- 2-64 Tincture of opium;
- 2-65 (B) a salt, compound, isomer, derivative, or
- 2-66 preparation of a substance that is chemically equivalent or
- 2-67 identical to a substance described by Paragraph (A), other than the
- 2-68 isoquinoline alkaloids of opium;
- 2-69 (C) Opium poppy and poppy straw;

- 3-1 (D) Cocaine, including:
3-2 (i) its salts, its optical, position, and
3-3 geometric isomers, and the salts of those isomers;
3-4 (ii) coca leaves and a salt, compound,
3-5 derivative, or preparation of coca leaves; and
3-6 (iii) a salt, compound, derivative, or
3-7 preparation of a salt, compound, or derivative that is chemically
3-8 equivalent or identical to a substance described by Subparagraph
3-9 (i) or (ii), other than decocainized coca leaves or extractions of
3-10 coca leaves that do not contain cocaine or ecgonine; and
3-11 (E) concentrate of poppy straw, meaning the crude
3-12 extract of poppy straw in liquid, solid, or powder form that
3-13 contains the phenanthrine alkaloids of the opium poppy;
3-14 (4) the following opiates, including their isomers,
3-15 esters, ethers, salts, and salts of isomers, if the existence of
3-16 these isomers, esters, ethers, and salts is possible within the
3-17 specific chemical designation:
3-18 Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-
3-19 phenethyl)-4-piperidinyl]-N-phenylacetamide);
3-20 Alpha-methylthiofentanyl (N-[1-methyl-2-(2-
3-21 thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
3-22 Alphaprodine;
3-23 Anileridine;
3-24 Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-
3-25 phenethyl)-4-piperidinyl]-N-phenylpropanamide);
3-26 Beta-hydroxy-3-methylfentanyl;
3-27 Bezitramide;
3-28 Carfentanil;
3-29 Dihydrocodeine not listed in Penalty Group 3 or 4;
3-30 Diphenoxylate not listed in Penalty Group 3 or 4;
3-31 Fentanyl or alpha-methylfentanyl, or any other
3-32 derivative of Fentanyl;
3-33 Isomethadone;
3-34 Levomethorphan;
3-35 Levorphanol;
3-36 Metazocine;
3-37 Methadone;
3-38 Methadone-Intermediate, 4-cyano-2-dimethylamino-
3-39 4, 4-diphenyl butane;
3-40 3-methylfentanyl(N-[3-methyl-1-(2-phenylethyl)-
3-41 4-piperidyl]-N-phenylpropanamide);
3-42 3-methylthiofentanyl(N-[3-methyl-1-(2-thienyl)
3-43 ethyl-4-piperidinyl]-N-phenylpropanamide);
3-44 Moramide-Intermediate, 2-methyl-3-morpholino-1,
3-45 1-diphenyl-propane-carboxylic acid;
3-46 Para-fluorofentanyl(N-(4-fluorophenyl)-N-1-(2-
3-47 phenylethyl)-4-piperidinylpropanamide);
3-48 PEPAP (1-(2-phenethyl)-4-phenyl-4-
3-49 acetoxypiperidine);
3-50 Pethidine (Meperidine);
3-51 Pethidine-Intermediate-A, 4-cyano-1-methyl-4-
3-52 phenylpiperidine;
3-53 Pethidine-Intermediate-B, ethyl-4-
3-54 phenylpiperidine-4 carboxylate;
3-55 Pethidine-Intermediate-C, 1-methyl-4-
3-56 phenylpiperidine-4-carboxylic acid;
3-57 Phenazocine;
3-58 Piminodine;
3-59 Racemethorphan;
3-60 Racemorphan;
3-61 Remifentanil; and
3-62 Thiofentanyl(N-phenyl-N-[1-(2-thienyl)ethyl-4-pi
3-63 peridinyl]-propanamide);
3-64 (5) Flunitrazepam (trade or other name: Rohypnol);
3-65 (6) Methamphetamine, including its salts, optical
3-66 isomers, and salts of optical isomers;
3-67 (7) Phenylacetone and methylamine, if possessed
3-68 together with intent to manufacture methamphetamine;
3-69 (8) Phencyclidine, including its salts;

- 4-1 (9) Gamma hydroxybutyric acid (some trade or other
- 4-2 names: gamma hydroxybutyrate, GHB), including its salts; [~~and~~]
- 4-3 (10) Ketamine;
- 4-4 (11) Phenazepam;
- 4-5 (12) U-47700; and
- 4-6 (13) AH-7921.

4-7 SECTION 2. Section 481.104(a), Health and Safety Code, is

4-8 amended to read as follows:

4-9 (a) Penalty Group 3 consists of:

4-10 (1) a material, compound, mixture, or preparation that

4-11 contains any quantity of the following substances having a

4-12 potential for abuse associated with a stimulant effect on the

4-13 central nervous system:

4-14 Methylphenidate and its salts; and

4-15 Phenmetrazine and its salts;

4-16 (2) a material, compound, mixture, or preparation that

4-17 contains any quantity of the following substances having a

4-18 potential for abuse associated with a depressant effect on the

4-19 central nervous system:

4-20 a substance that contains any quantity of a

4-21 derivative of barbituric acid, or any salt of a derivative of

4-22 barbituric acid not otherwise described by this subsection;

4-23 a compound, mixture, or preparation containing

4-24 amobarbital, secobarbital, pentobarbital, or any salt of any of

4-25 these, and one or more active medicinal ingredients that are not

4-26 listed in any penalty group;

4-27 a suppository dosage form containing amobarbital,

4-28 secobarbital, pentobarbital, or any salt of any of these drugs, and

4-29 approved by the United States Food and Drug Administration for

4-30 marketing only as a suppository;

4-31 Alprazolam;

4-32 Amobarbital;

4-33 Bromazepam;

4-34 Camazepam;

4-35 Carisoprodol;

4-36 Chlordiazepoxide;

4-37 Chlorhexadol;

4-38 Clobazam;

4-39 Clonazepam;

4-40 Clorazepate;

4-41 Clotiazepam;

4-42 Cloxazolam;

4-43 Delorazepam;

4-44 Diazepam;

4-45 Estazolam;

4-46 Ethyl loflazepate;

4-47 Etizolam;

4-48 Fludiazepam;

4-49 Flurazepam;

4-50 Glutethimide;

4-51 Halazepam;

4-52 Haloxzolam;

4-53 Ketazolam;

4-54 Loprazolam;

4-55 Lorazepam;

4-56 Lormetazepam;

4-57 Lysergic acid, including its salts, isomers, and

4-58 salts of isomers;

4-59 Lysergic acid amide, including its salts,

4-60 isomers, and salts of isomers;

4-61 Mebutamate;

4-62 Medazepam;

4-63 Methyprylon;

4-64 Midazolam;

4-65 Nimetazepam;

4-66 Nitrazepam;

4-67 Nordiazepam;

4-68 Oxazepam;

4-69 Oxazolam;

5-1 Pentazocine, its salts, derivatives, or compounds
5-2 or mixtures thereof;
5-3 Pentobarbital;
5-4 Pinazepam;
5-5 Prazepam;
5-6 Quazepam;
5-7 Secobarbital;
5-8 Sulfondiethylmethane;
5-9 Sulfonethylmethane;
5-10 Sulfonmethane;
5-11 Temazepam;
5-12 Tetrazepam;
5-13 Tiletamine and zolazepam in combination, and its
5-14 salts. (some trade or other names for a tiletamine-zolazepam
5-15 combination product: Telazol, for tiletamine: 2-(ethylamino)-
5-16 2-(2-thienyl)-cyclohexanone, and for zolazepam: 4-(2-
5-17 fluorophenyl)-6, 8-dihydro-1,3,8,-trimethylpyrazolo-[3,4-
5-18 e](1,4)-diazepin-7(1H)-one, flupyrzapon);
5-19 Tramadol;
5-20 Triazolam;
5-21 Zaleplon;
5-22 Zolpidem; and
5-23 Zopiclone;
5-24 (3) Nalorphine;
5-25 (4) a material, compound, mixture, or preparation
5-26 containing limited quantities of the following narcotic drugs, or
5-27 any of their salts:
5-28 not more than 1.8 grams of codeine, or any of its
5-29 salts, per 100 milliliters or not more than 90 milligrams per dosage
5-30 unit, with an equal or greater quantity of an isoquinoline alkaloid
5-31 of opium;
5-32 not more than 1.8 grams of codeine, or any of its
5-33 salts, per 100 milliliters or not more than 90 milligrams per dosage
5-34 unit, with one or more active, nonnarcotic ingredients in
5-35 recognized therapeutic amounts;
5-36 not more than 300 milligrams of dihydrocodeinone
5-37 (hydrocodone), or any of its salts, per 100 milliliters or not more
5-38 than 15 milligrams per dosage unit, with a fourfold or greater
5-39 quantity of an isoquinoline alkaloid of opium;
5-40 not more than 300 milligrams of dihydrocodeinone
5-41 (hydrocodone), or any of its salts, per 100 milliliters or not more
5-42 than 15 milligrams per dosage unit, with one or more active,
5-43 nonnarcotic ingredients in recognized therapeutic amounts;
5-44 not more than 1.8 grams of dihydrocodeine, or any
5-45 of its salts, per 100 milliliters or not more than 90 milligrams per
5-46 dosage unit, with one or more active, nonnarcotic ingredients in
5-47 recognized therapeutic amounts;
5-48 not more than 300 milligrams of ethylmorphine, or
5-49 any of its salts, per 100 milliliters or not more than 15 milligrams
5-50 per dosage unit, with one or more active, nonnarcotic ingredients
5-51 in recognized therapeutic amounts;
5-52 not more than 500 milligrams of opium per 100
5-53 milliliters or per 100 grams, or not more than 25 milligrams per
5-54 dosage unit, with one or more active, nonnarcotic ingredients in
5-55 recognized therapeutic amounts;
5-56 not more than 50 milligrams of morphine, or any of
5-57 its salts, per 100 milliliters or per 100 grams with one or more
5-58 active, nonnarcotic ingredients in recognized therapeutic amounts;
5-59 and
5-60 not more than 1 milligram of difenoxin and not
5-61 less than 25 micrograms of atropine sulfate per dosage unit;
5-62 (5) a material, compound, mixture, or preparation that
5-63 contains any quantity of the following substances:
5-64 Barbitol;
5-65 Chloral betaine;
5-66 Chloral hydrate;
5-67 Ethchlorvynol;
5-68 Ethinamate;
5-69 Meproamate;

- 6-1 Methohexital;
- 6-2 Methylphenobarbital (Mephobarbital);
- 6-3 Paraldehyde;
- 6-4 Petrichloral; and
- 6-5 Phenobarbital;
- 6-6 (6) Peyote, unless unharvested and growing in its
- 6-7 natural state, meaning all parts of the plant classified
- 6-8 botanically as Lophophora, whether growing or not, the seeds of the
- 6-9 plant, an extract from a part of the plant, and every compound,
- 6-10 manufacture, salt, derivative, mixture, or preparation of the
- 6-11 plant, its seeds, or extracts;
- 6-12 (7) unless listed in another penalty group, a
- 6-13 material, compound, mixture, or preparation that contains any
- 6-14 quantity of the following substances having a stimulant effect on
- 6-15 the central nervous system, including the substance's salts,
- 6-16 optical, position, or geometric isomers, and salts of the
- 6-17 substance's isomers, if the existence of the salts, isomers, and
- 6-18 salts of isomers is possible within the specific chemical
- 6-19 designation:
- 6-20 Benzphetamine;
- 6-21 Cathine [(+)-norpseudoephedrine];
- 6-22 Chlorphentermine;
- 6-23 Clortermine;
- 6-24 Diethylpropion;
- 6-25 Fencamfamin;
- 6-26 Fenfluramine;
- 6-27 Fenproporex;
- 6-28 Mazindol;
- 6-29 Mefenorex;
- 6-30 Modafinil;
- 6-31 Pemoline (including organometallic complexes and
- 6-32 their chelates);
- 6-33 Phendimetrazine;
- 6-34 Phentermine;
- 6-35 Pipradrol;
- 6-36 Sibutramine; and
- 6-37 SPA [(-)-1-dimethylamino-1,2-diphenylethane];
- 6-38 (8) unless specifically excepted or unless listed in
- 6-39 another penalty group, a material, compound, mixture, or
- 6-40 preparation that contains any quantity of the following substance,
- 6-41 including its salts:
- 6-42 Dextropropoxyphene (Alpha-(+)-4-dimethylamino-
- 6-43 1,2-diphenyl-3-methyl-2-propionoxybutane);
- 6-44 (9) an anabolic steroid, including any drug or
- 6-45 hormonal substance, or any substance that is chemically or
- 6-46 pharmacologically related to testosterone, other than an estrogen,
- 6-47 progestin, dehydroepiandrosterone, or corticosteroid, and promotes
- 6-48 muscle growth, including the following drugs and substances and any
- 6-49 salt, ester, or ether of the following drugs and substances:
- 6-50 Androstenediol;
- 6-51 Androstenedione;
- 6-52 Androstenediol;
- 6-53 Androstenedione;
- 6-54 Bolasterone;
- 6-55 Boldenone;
- 6-56 Calusterone;
- 6-57 Clostebol;
- 6-58 Dehydrochlormethyltestosterone;
- 6-59 Delta-1-dihydrotestosterone;
- 6-60 Dihydrotestosterone (4-dihydrotestosterone);
- 6-61 Drostanolone;
- 6-62 Ethylestrenol;
- 6-63 Fluoxymesterone;
- 6-64 Formebolone;
- 6-65 Furazabol;
- 6-66 13beta-ethyl-17beta-hydroxygon-4-en-3-one;
- 6-67 4-hydroxytestosterone;
- 6-68 4-hydroxy-19-nortestosterone;
- 6-69 Mestanolone;

- 7-1 Mesterolone;
- 7-2 Methandienone;
- 7-3 Methandriol;
- 7-4 Methenolone;
- 7-5 17alpha-methyl-3beta, 17 beta-dihydroxy-5alpha-
- 7-6 androstane;
- 7-7 17alpha-methyl-3alpha, 17 beta-dihydroxy-5alpha-
- 7-8 androstane;
- 7-9 17alpha-methyl-3beta, 17beta-dihydroxyandrost-4-
- 7-10 ene;
- 7-11 17alpha-methyl-4-hydroxynandrolone;
- 7-12 Methyldienolone;
- 7-13 Methyltestosterone;
- 7-14 Methyltrienolone;
- 7-15 17alpha-methyl-delta-1-dihydrotestosterone;
- 7-16 Mibolerone;
- 7-17 Nandrolone;
- 7-18 Norandrostenediol;
- 7-19 Norandrostenedione;
- 7-20 Norbolethone;
- 7-21 Norclostebol;
- 7-22 Norethandrolone;
- 7-23 Normethandrolone;
- 7-24 Oxandrolone;
- 7-25 Oxymesterone;
- 7-26 Oxymetholone;
- 7-27 Stanozolol;
- 7-28 Stenbolone;
- 7-29 Testolactone;
- 7-30 Testosterone;
- 7-31 Tetrahydrogestrinone; and
- 7-32 Trenbolone; and

7-33 (10) *Salvia divinorum*, unless unharvested and growing
 7-34 in its natural state, meaning all parts of that plant, whether
 7-35 growing or not, the seeds of that plant, an extract from a part of
 7-36 that plant, and every compound, manufacture, salt, derivative,
 7-37 mixture, or preparation of that plant, its seeds, or extracts,
 7-38 including Salvinorin A.

7-39 SECTION 3. The change in law made by this Act applies only
 7-40 to an offense committed on or after the effective date of this Act.
 7-41 An offense committed before the effective date of this Act is
 7-42 governed by the law in effect on the date the offense was committed,
 7-43 and the former law is continued in effect for that purpose. For
 7-44 purposes of this section, an offense was committed before the
 7-45 effective date of this Act if any element of the offense occurred
 7-46 before that date.

7-47 SECTION 4. This Act takes effect September 1, 2017.

7-48 * * * * *