

1-1 By: Huffman S.B. No. 645
1-2 (In the Senate - Filed January 27, 2023; February 17, 2023,
1-3 read first time and referred to Committee on Criminal Justice;
1-4 March 9, 2023, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; March 9, 2023,
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 COMMITTEE SUBSTITUTE FOR S.B. No. 645 By: Huffman

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the designation of fentanyl poisoning for purposes of
1-20 the death certificate and to the criminal penalties for certain
1-21 controlled substance offenses; increasing a criminal penalty.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Section 193.005, Health and Safety Code, is
1-24 amended by adding Subsection (e-1) to read as follows:

1-25 (e-1) If a toxicology examination reveals a detectable
1-26 amount of a controlled substance listed in Penalty Group 1-B in the
1-27 body of the decedent, the medical certification on the death
1-28 certificate must include the presence of the substance and the term
1-29 "Fentanyl Poisoning." This subsection does not apply if the
1-30 decedent at the time of death had a valid prescription for the
1-31 controlled substance.

1-32 SECTION 2. Sections 481.112(e) and (f), Health and Safety
1-33 Code, are amended to read as follows:

1-34 (e) An offense under Subsection (a) is a felony of the first
1-35 degree punishable by imprisonment in the Texas Department of
1-36 Criminal Justice for life or for a term of not more than 99 years or
1-37 less than 10 years, and a fine not to exceed \$100,000, if the amount
1-38 of the controlled substance to which the offense applies is, by
1-39 aggregate weight, including adulterants or dilutants, 200 grams or
1-40 more but less than 400 grams.

1-41 (f) An offense under Subsection (a) is a felony of the first
1-42 degree punishable by imprisonment in the Texas Department of
1-43 Criminal Justice for life or for a term of not more than 99 years or
1-44 less than 15 years, and a fine not to exceed \$250,000, if the amount
1-45 of the controlled substance to which the offense applies is, by
1-46 aggregate weight, including adulterants or dilutants, 400 grams or
1-47 more.

1-48 SECTION 3. Section 481.1121(b), Health and Safety Code, is
1-49 amended to read as follows:

1-50 (b) An offense under this section is:

1-51 (1) a state jail felony if the number of abuse units of
1-52 the controlled substance is fewer than 20;

1-53 (2) a felony of the second degree if the number of
1-54 abuse units of the controlled substance is 20 or more but fewer than
1-55 80;

1-56 (3) a felony of the first degree if the number of abuse
1-57 units of the controlled substance is 80 or more but fewer than
1-58 4,000; and

1-59 (4) a felony of the first degree punishable by
1-60 imprisonment in the Texas Department of Criminal Justice for life

2-1 or for a term of not more than 99 years or less than 15 years and a
2-2 fine not to exceed \$250,000, if the number of abuse units of the
2-3 controlled substance is 4,000 or more.

2-4 SECTION 4. Sections 481.1123(b), (d), (e), and (f), Health
2-5 and Safety Code, are amended to read as follows:

2-6 (b) An offense under Subsection (a) is a ~~[state jail]~~ felony
2-7 of the third degree if the amount of the controlled substance to
2-8 which the offense applies is, by aggregate weight, including
2-9 adulterants or dilutants, less than one gram.

2-10 (d) An offense under Subsection (a) is a felony of the first
2-11 degree punishable by imprisonment in the Texas Department of
2-12 Criminal Justice for life or for a term of not more than 99 years or
2-13 less than 10 years, and a fine not to exceed \$20,000, if the amount
2-14 of the controlled substance to which the offense applies is, by
2-15 aggregate weight, including adulterants or dilutants, four grams or
2-16 more but less than 200 grams.

2-17 (e) An offense under Subsection (a) is a felony of the first
2-18 degree punishable by imprisonment in the Texas Department of
2-19 Criminal Justice for life or for a term of not more than 99 years or
2-20 less than 15 years, and a fine not to exceed \$200,000, if the amount
2-21 of the controlled substance to which the offense applies is, by
2-22 aggregate weight, including adulterants or dilutants, 200 grams or
2-23 more but less than 400 grams.

2-24 (f) An offense under Subsection (a) is a felony of the first
2-25 degree punishable by imprisonment in the Texas Department of
2-26 Criminal Justice for life or for a term of not more than 99 years or
2-27 less than 20 years, and a fine not to exceed \$500,000, if the amount
2-28 of the controlled substance to which the offense applies is, by
2-29 aggregate weight, including adulterants or dilutants, 400 grams or
2-30 more.

2-31 SECTION 5. Section 481.113(e), Health and Safety Code, is
2-32 amended to read as follows:

2-33 (e) An offense under Subsection (a) is a felony of the first
2-34 degree punishable by imprisonment in the Texas Department of
2-35 Criminal Justice for life or for a term of not more than 99 years or
2-36 less than 10 years, and a fine not to exceed \$100,000, if the amount
2-37 of the controlled substance to which the offense applies is, by
2-38 aggregate weight, including adulterants or dilutants, 400 grams or
2-39 more.

2-40 SECTION 6. Section 481.114(e), Health and Safety Code, is
2-41 amended to read as follows:

2-42 (e) An offense under Subsection (a) is a felony of the first
2-43 degree punishable by imprisonment in the Texas Department of
2-44 Criminal Justice for life or for a term of not more than 99 years or
2-45 less than 10 years, and a fine not to exceed \$100,000, if the amount
2-46 of the controlled substance to which the offense applies is, by
2-47 aggregate weight, including any adulterants or dilutants, 400 grams
2-48 or more.

2-49 SECTION 7. Section 481.115(f), Health and Safety Code, is
2-50 amended to read as follows:

2-51 (f) An offense under Subsection (a) is a felony of the first
2-52 degree punishable by imprisonment in the Texas Department of
2-53 Criminal Justice for life or for a term of not more than 99 years or
2-54 less than 10 years, and a fine not to exceed \$100,000, if the amount
2-55 of the controlled substance possessed is, by aggregate weight,
2-56 including adulterants or dilutants, 400 grams or more.

2-57 SECTION 8. Section 481.1151(b), Health and Safety Code, is
2-58 amended to read as follows:

2-59 (b) An offense under this section is:

2-60 (1) a state jail felony if the number of abuse units of
2-61 the controlled substance is fewer than 20;

2-62 (2) a felony of the third degree if the number of abuse
2-63 units of the controlled substance is 20 or more but fewer than 80;

2-64 (3) a felony of the second degree if the number of
2-65 abuse units of the controlled substance is 80 or more but fewer than
2-66 4,000;

2-67 (4) a felony of the first degree if the number of abuse
2-68 units of the controlled substance is 4,000 or more but fewer than
2-69 8,000; and

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

3-6 SECTION 9. Section 481.116(e), Health and Safety Code, is
3-7 amended to read as follows:

3-8 (e) An offense under Subsection (a) is a felony of the first
3-9 degree punishable by imprisonment in the Texas Department of
3-10 Criminal Justice for life or for a term of not more than 99 years or
3-11 less than five years, and a fine not to exceed \$50,000, if the
3-12 amount of the controlled substance possessed is, by aggregate
3-13 weight, including adulterants or dilutants, 400 grams or more.

3-14 SECTION 10. Section 481.1161(b), Health and Safety Code, is
3-15 amended to read as follows:

3-16 (b) An offense under this section is:

3-17 (1) a Class B misdemeanor if the amount of the
3-18 controlled substance possessed is, by aggregate weight, including
3-19 adulterants or dilutants, two ounces or less;

3-20 (2) a Class A misdemeanor if the amount of the
3-21 controlled substance possessed is, by aggregate weight, including
3-22 adulterants or dilutants, four ounces or less but more than two
3-23 ounces;

3-24 (3) a state jail felony if the amount of the controlled
3-25 substance possessed is, by aggregate weight, including adulterants
3-26 or dilutants, five pounds or less but more than four ounces;

3-27 (4) a felony of the third degree if the amount of the
3-28 controlled substance possessed is, by aggregate weight, including
3-29 adulterants or dilutants, 50 pounds or less but more than 5 pounds;

3-30 (5) a felony of the second degree if the amount of the
3-31 controlled substance possessed is, by aggregate weight, including
3-32 adulterants or dilutants, 2,000 pounds or less but more than 50
3-33 pounds; and

3-34 (6) a felony of the first degree punishable by
3-35 imprisonment in the Texas Department of Criminal Justice for life
3-36 or for a term of not more than 99 years or less than 5 years, and a
3-37 fine not to exceed \$50,000, if the amount of the controlled
3-38 substance possessed is, by aggregate weight, including adulterants
3-39 or dilutants, more than 2,000 pounds.

3-40 SECTION 11. Section 481.117(e), Health and Safety Code, is
3-41 amended to read as follows:

3-42 (e) An offense under Subsection (a) is a felony of the first
3-43 degree punishable by imprisonment in the Texas Department of
3-44 Criminal Justice for life or for a term of not more than 99 years or
3-45 less than five years, and a fine not to exceed \$50,000, if the
3-46 amount of the controlled substance possessed is, by aggregate
3-47 weight, including adulterants or dilutants, 400 grams or more.

3-48 SECTION 12. Section 481.118(e), Health and Safety Code, is
3-49 amended to read as follows:

3-50 (e) An offense under Subsection (a) is a felony of the first
3-51 degree punishable by imprisonment in the Texas Department of
3-52 Criminal Justice for life or for a term of not more than 99 years or
3-53 less than five years, and a fine not to exceed \$50,000, if the
3-54 amount of the controlled substance possessed is, by aggregate
3-55 weight, including adulterants or dilutants, 400 grams or more.

3-56 SECTION 13. Section 481.120(b), Health and Safety Code, is
3-57 amended to read as follows:

3-58 (b) An offense under Subsection (a) is:

3-59 (1) a Class B misdemeanor if the amount of marihuana
3-60 delivered is one-fourth ounce or less and the person committing the
3-61 offense does not receive remuneration for the marihuana;

3-62 (2) a Class A misdemeanor if the amount of marihuana
3-63 delivered is one-fourth ounce or less and the person committing the
3-64 offense receives remuneration for the marihuana;

3-65 (3) a state jail felony if the amount of marihuana
3-66 delivered is five pounds or less but more than one-fourth ounce;

3-67 (4) a felony of the second degree if the amount of
3-68 marihuana delivered is 50 pounds or less but more than five pounds;

3-69 (5) a felony of the first degree if the amount of

4-1 marihuana delivered is 2,000 pounds or less but more than 50 pounds;
 4-2 and

4-3 (6) a felony of the first degree punishable by
 4-4 imprisonment in the Texas Department of Criminal Justice for life
 4-5 or for a term of not more than 99 years or less than 10 years, and a
 4-6 fine not to exceed \$100,000, if the amount of marihuana delivered is
 4-7 more than 2,000 pounds.

4-8 SECTION 14. Section 481.121(b), Health and Safety Code, is
 4-9 amended to read as follows:

4-10 (b) An offense under Subsection (a) is:

4-11 (1) a Class B misdemeanor if the amount of marihuana
 4-12 possessed is two ounces or less;

4-13 (2) a Class A misdemeanor if the amount of marihuana
 4-14 possessed is four ounces or less but more than two ounces;

4-15 (3) a state jail felony if the amount of marihuana
 4-16 possessed is five pounds or less but more than four ounces;

4-17 (4) a felony of the third degree if the amount of
 4-18 marihuana possessed is 50 pounds or less but more than 5 pounds;

4-19 (5) a felony of the second degree if the amount of
 4-20 marihuana possessed is 2,000 pounds or less but more than 50 pounds;
 4-21 and

4-22 (6) a felony of the first degree punishable by
 4-23 imprisonment in the Texas Department of Criminal Justice for life
 4-24 or for a term of not more than 99 years or less than 5 years, and a
 4-25 fine not to exceed \$50,000, if the amount of marihuana possessed is
 4-26 more than 2,000 pounds.

4-27 SECTION 15. Section 481.126(a), Health and Safety Code, is
 4-28 amended to read as follows:

4-29 (a) A person commits an offense if the person:

4-30 (1) barter property or expends funds the person knows
 4-31 are derived from the commission of a first degree felony ~~an~~
 4-32 offense under this chapter punishable by imprisonment in the Texas
 4-33 Department of Criminal Justice for life;

4-34 (2) barter property or expends funds the person knows
 4-35 are derived from the commission of an offense under Section
 4-36 481.121(a) that is punishable under Section 481.121(b)(5);

4-37 (3) barter property or finances or invests funds the
 4-38 person knows or believes are intended to further the commission of
 4-39 an offense for which the punishment is described by Subdivision
 4-40 (1); or

4-41 (4) barter property or finances or invests funds the
 4-42 person knows or believes are intended to further the commission of
 4-43 an offense under Section 481.121(a) that is punishable under
 4-44 Section 481.121(b)(5).

4-45 SECTION 16. Section 481.134(c), Health and Safety Code, as
 4-46 amended by Chapters 584 (S.B. 768) and 807 (H.B. 1540), Acts of the
 4-47 87th Legislature, Regular Session, 2021, is reenacted and amended
 4-48 to read as follows:

4-49 (c) The minimum term of confinement or imprisonment for an
 4-50 offense otherwise punishable under Section 481.112(c), (d), (e), or
 4-51 (f), 481.1121(b)(2), (3), or (4), 481.1123(b), ~~(c) [481.1123(c)]~~,
 4-52 (d), (e), or (f), 481.113(c), (d), or (e), 481.114(c), (d), or (e),
 4-53 481.115(c)-(f), 481.1151(b)(2), (3), (4), or (5), 481.116(c), (d),
 4-54 or (e), 481.1161(b)(4), (5), or (6), 481.117(c), (d), or (e),
 4-55 481.118(c), (d), or (e), 481.120(b)(4), (5), or (6), or
 4-56 481.121(b)(4), (5), or (6) is increased by five years and the
 4-57 maximum fine for the offense is doubled if it is shown on the trial
 4-58 of the offense that the offense was committed:

4-59 (1) in, on, or within 1,000 feet of the premises of a
 4-60 school, the premises of a public or private youth center, or a
 4-61 playground;

4-62 (2) on a school bus; or

4-63 (3) by any unauthorized person 18 years of age or
 4-64 older, in, on, or within 1,000 feet of premises owned, rented, or
 4-65 leased by a general residential operation operating as a
 4-66 residential treatment center.

4-67 SECTION 17. Section 71.02(a), Penal Code, is amended to
 4-68 read as follows:

4-69 (a) A person commits an offense if, with the intent to

5-1 establish, maintain, or participate in a combination or in the
5-2 profits of a combination or as a member of a criminal street gang,
5-3 the person commits or conspires to commit one or more of the
5-4 following:

5-5 (1) murder, capital murder, arson, aggravated
5-6 robbery, robbery, burglary, theft, aggravated kidnapping,
5-7 kidnapping, aggravated assault, aggravated sexual assault, sexual
5-8 assault, continuous sexual abuse of young child or disabled
5-9 individual, solicitation of a minor, forgery, deadly conduct,
5-10 assault punishable as a Class A misdemeanor, burglary of a motor
5-11 vehicle, or unauthorized use of a motor vehicle;

5-12 (2) any gambling offense punishable as a Class A
5-13 misdemeanor;

5-14 (3) promotion of prostitution, aggravated promotion
5-15 of prostitution, or compelling prostitution;

5-16 (4) unlawful manufacture, transportation, repair, or
5-17 sale of firearms or prohibited weapons;

5-18 (5) unlawful manufacture, delivery, dispensation, or
5-19 distribution of a controlled substance or dangerous drug, or
5-20 unlawful possession of a controlled substance or dangerous drug
5-21 through forgery, fraud, misrepresentation, or deception;

5-22 (5-a) causing the unlawful delivery, dispensation, or
5-23 distribution of a controlled substance or dangerous drug in
5-24 violation of Subtitle B, Title 3, Occupations Code;

5-25 (5-b) unlawful possession with intent to deliver a
5-26 controlled substance listed in Penalty Group 1-B under Section
5-27 481.1022, Health and Safety Code;

5-28 (6) any unlawful wholesale promotion or possession of
5-29 any obscene material or obscene device with the intent to wholesale
5-30 promote the same;

5-31 (7) any offense under Subchapter B, Chapter 43,
5-32 depicting or involving conduct by or directed toward a child
5-33 younger than 18 years of age;

5-34 (8) any felony offense under Chapter 32;

5-35 (9) any offense under Chapter 36;

5-36 (10) any offense under Chapter 34, 35, or 35A;

5-37 (11) any offense under Section 37.11(a);

5-38 (12) any offense under Chapter 20A;

5-39 (13) any offense under Section 37.10;

5-40 (14) any offense under Section 38.06, 38.07, 38.09, or
5-41 38.11;

5-42 (15) any offense under Section 42.10;

5-43 (16) any offense under Section 46.06(a)(1) or 46.14;

5-44 (17) any offense under Section 20.05 or 20.06;

5-45 (18) any offense under Section 16.02; or

5-46 (19) any offense classified as a felony under the Tax
5-47 Code.

5-48 SECTION 18. The change in law made by this Act to Section
5-49 193.005, Health and Safety Code, applies only to a death that occurs
5-50 on or after the effective date of this Act, or a death that occurs
5-51 before that date but is discovered on or after the effective date of
5-52 this Act.

5-53 SECTION 19. The changes in law made by this Act to Chapter
5-54 481, Health and Safety Code, and Section 71.02, Penal Code, apply
5-55 only to an offense committed on or after the effective date of this
5-56 Act. An offense committed before the effective date of this Act is
5-57 governed by the law in effect on the date the offense was committed,
5-58 and the former law is continued in effect for that purpose. For
5-59 purposes of this section, an offense was committed before the
5-60 effective date of this Act if any element of the offense occurred
5-61 before that date.

5-62 SECTION 20. To the extent of any conflict, this Act prevails
5-63 over another Act of the 88th Legislature, Regular Session, 2023,
5-64 relating to nonsubstantive additions to and corrections in enacted
5-65 codes.

5-66 SECTION 21. This Act takes effect September 1, 2023.

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