AN ACT
relating to designating certain synthetic cannabinoids as
controlled substances under the Texas Controlled Substances Act;
providing penalties and establishing certain criminal consequences
or procedures.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Subchapter D, Chapter 481, Health and Safety
Code, is amended by adding Section 481.1031 to read as follows:
Sec. 481.1031. PENALTY GROUP 2-A. Penalty Group 2-A
consists of any quantity of a synthetic chemical compound that is a
cannabinoid receptor agonist and mimics the pharmacological effect
of naturally occurring cannabinoids, including:
naphthoylindoles structurally derived from
3-(1-naphthoyl)indole by substitution at the nitrogen atom of the
indole ring by alkyl, alkenyl, cycloalkylmethy1, cycloalkylethyl,
or 2-(4-morpholiny1)ethyl, whether or not further substituted in
the indole ring to any extent, whether or not substituted in the
napthyl ring to any extent, including:
AM-2201;
JWH-004;
JWH-007;
JWH-009;
JWH-015;
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JWH-386;
JWH-387;
JWH-394;
JWH-395;
JWH-397;
JWH-398;
JWH-399;
JWH-400;
JWH-412;
JWH-413; and
JWH-414;

naphthylmethylindones structurally derived from 1H-indol-3-yl-(1-naphthyl)methane by substitution at the nitrogen atom of the indole ring by alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, or 2-(4-morpholinyl)ethyl, whether or not further substituted in the indole ring to any extent, whether or not substituted in the naphthyl ring to any extent, including:

JWH-175;
JWH-184;
JWH-185;
JWH-192;
JWH-194;
JWH-195;
JWH-196;
JWH-197; and
JWH-199;

naphthylpyrroles structurally derived from
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3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring by alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, or 2-(4-morpholinyl)ethyl, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent, including:

JWH-030;
JWH-145;
JWH-146;
JWH-147;
JWH-150;
JWH-156;
JWH-243;
JWH-244;
JWH-245;
JWH-246;
JWH-292;
JWH-293;
JWH-307;
JWH-308;
JWH-309;
JWH-346;
JWH-347;
JWH-348;
JWH-363;
JWH-364;
JWH-365;
JWH-366;
naphthylmethylindenones structurally derived from l-(1-naphthylmethyl)indene by substitution at the 3-position of the indene ring by alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, or 2-(4-morpholinyl)ethyl, whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent, including:

JWH-171;
JWH-172;
JWH-173; and
JWH-176;

phenylacetylimidole structurally derived from 3-phenylacetylimidole by substitution at the nitrogen atom of the indole ring with alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, or 2-(4-morpholinyl)ethyl, whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent, including:

AM-694;
AM-1241;
JWH-167;
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1. JWH-203;
2. JWH-204;
3. JWH-205;
4. JWH-206;
5. JWH-208;
6. JWH-237;
7. JWH-248;
8. JWH-249;
9. JWH-250;
10. JWH-251;
11. JWH-252;
12. JWH-253;
13. JWH-302;
14. JWH-303;
15. JWH-305;
16. JWH-306;
17. JWH-311;
18. JWH-312;
19. JWH-313;
20. JWH-314; and
21. JWH-315;

cyclohexylphenols structurally derived from
2-(3-hydroxycyclohexyl)phenol by substitution at the 5-position of
the phenolic ring by alkyl, alkenyl, cycloalkylmethyl,
cycloalkylethyl, or 2-(4-morpholinyl)ethyl, whether or not
substituted in the cyclohexyl ring to any extent, including:
22. CP-55,940;
CP-47,497;
analogues of CP-47,497, including VII, V, VIII, I, II, III, IV, IX, X, XI, XII, XIII, XV, and XVI;
JWH-337;
JWH-344;
JWH-345; and
JWH-405; and
cannabinol derivatives, except where contained in marhuana, including tetrahydro derivatives of cannabinol and 3-alkyl homologues of cannabinol or of its tetrahydro derivatives, such as:
Nabilone;
HU-210;
HU-211; and
WIN-55,212-2.

SECTION 2. Subsection (c), Section 481.111, Health and Safety Code, is amended to read as follows:
(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.

SECTION 3. The heading to Section 481.113, Health and Safety Code, is amended to read as follows:
Sec. 481.113. OFFENSE: MANUFACTURE OR DELIVERY OF SUBSTANCE IN PENALTY GROUP 2 OR 2-A.
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SECTION 4. Subsection (a), Section 481.113, Health and Safety Code, is amended to read as follows:

(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.

SECTION 5. Subchapter D, Chapter 481, Health and Safety Code, is amended by adding Section 481.1161 to read as follows:

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
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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) 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.

SECTION 6. Subsections (c) and (d), Section 481.134, Health
and Safety Code, are amended to read as follows:

(c) The minimum term of confinement or imprisonment for an
offense otherwise punishable under Section 481.112(c), (d), (e), or
(f), 481.113(c), (d), or (e), 481.114(c), (d), or (e),
481.115(c)-(f), 481.116(c), (d), or (e), 481.1161(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; or

(2) on a school bus.

(d) An offense otherwise punishable under Section
481.112(b), 481.113(b), 481.114(b), 481.115(b), 481.116(b),
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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; or

(2) on a school bus.

SECTION 7. Subsection (d), Article 14.06, Code of Criminal Procedure, is amended to read as follows:

(d) Subsection (c) applies only to a person charged with committing an offense under:

(1) Section 481.121, Health and Safety Code, if the offense is punishable under Subsection (b)(1) or (2) of that section;

(1-a) Section 481.1161, Health and Safety Code, if the offense is punishable under Subsection (b)(1) or (2) of that section;

(2) Section 28.03, Penal Code, if the offense is punishable under Subsection (b)(2) of that section;

(3) Section 28.08, Penal Code, if the offense is punishable under Subsection (b)(1) of that section;

(4) Section 31.03, Penal Code, if the offense is punishable under Subsection (e)(2)(A) of that section;

(5) Section 31.04, Penal Code, if the offense is punishable under Subsection (e)(2) of that section;

(6) Section 38.114, Penal Code, if the offense is punishable as a Class B misdemeanor; or
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(7) Section 521.457, Transportation Code.

SECTION 8. Subdivision (1), Subsection (a), Section 15, Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(1) On conviction of a state jail felony under Section 481.115(b), 481.1151(b)(1), 481.116(b), 481.1161(b)(3), 481.121(b)(3), or 481.129(g)(1), Health and Safety Code, that is punished under Section 12.35(a), Penal Code, the judge shall suspend the imposition of the sentence and place the defendant on community supervision, unless the defendant has previously been convicted of a felony, other than a felony punished under Section 12.44(a), Penal Code, or unless the conviction resulted from an adjudication of the guilt of a defendant previously placed on deferred adjudication community supervision for the offense, in which event the judge may suspend the imposition of the sentence and place the defendant on community supervision or may order the sentence to be executed. The provisions of this subdivision requiring the judge to suspend the imposition of the sentence and place the defendant on community supervision do not apply to a defendant who:

(A) under Section 481.1151(b)(1), Health and Safety Code, possessed more than five abuse units of the controlled substance;

(B) under Section 481.1161(b)(3), Health and Safety Code, possessed more than one pound, by aggregate weight, including adulterants or dilutants, of the controlled substance; or

(C) under Section 481.121(b)(3), Health and
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1 Safety Code, possessed more than one pound of marihuana.

2 SECTION 9. This Act takes effect September 1, 2011.

David Dewhurst
President of the Senate

I hereby certify that S.B. No. 331 passed the Senate on March 30, 2011, by the following vote: Yeas 31, Nays 0.

Joe Straus
Speaker of the House

I hereby certify that S.B. No. 331 passed the House on May 13, 2011, by the following vote: Yeas 138, Nays 0, one present not voting.

Jim H. Land
Secretary of the Senate

Rick Perry
Governor

Approved:

28 MAY '11

Date

Robert H. Hannan
Chief Clerk of the House

FILED IN THE OFFICE OF THE
SECRETARY OF STATE

MAY 28, 2011

Secretary of State