HEALTH & SAFETY CODE
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 public health 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 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 Groups 1, 1-A, or 2 through 4. The term includes the aggregate weight of any mixture, solution, or other substance containing a controlled substance.

(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, or 2; 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, or 2.

(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 481.073 to communicate a practitioner's instructions to a pharmacist.

(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 (Texas Hospital Licensing Law); or

(B) an ambulatory surgical center licensed by the Texas Department of Health and approved by the federal government to perform surgery paid by Medicaid on patients admitted for a period of not more than 24 hours.

(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; or

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

(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 is 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 nurse or physician assistant to whom a physician has delegated the authority to carry

out or sign prescription drug orders under Section 157.0511, 157.052, 157.053, 157.054, 157.0541, or 157.0542, 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 is registered under Section 481.063.

(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 contains the prescription information required by Section 481.075.

(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 quarter-inch square section of paper, 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 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.

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.

Sec. 481.003. RULES. (a) The director may adopt rules to administer and enforce this chapter.

(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.

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 V.T.C.A., 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 Texas Board of Health.

(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 Texas Board of Health.

(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 and adopt a rule controlling the substance if the commissioner finds the substance has a potential for abuse.

(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 V.T.C.A., 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.

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 V.T.C.A., Health & Safety Code Sec. 481.039 and amended by Acts 1997, 75th Leg., ch. 745, Sec. 4, eff. Jan. 1, 1998.

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 V.T.C.A., Health & Safety Code Sec. 481.040 and amended by Acts 1997, 75th Leg., ch. 745, Sec. 4, eff. Jan. 1, 1998.

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

Sec. 481.061. REGISTRATION REQUIRED. (a) Except as otherwise provided by this chapter, a person who is not a registrant may not manufacture, distribute, prescribe, possess, analyze, or dispense a controlled substance in this state.

(b) A person who is registered by the director 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) A separate registration is required at each principal place of business or professional practice where the applicant manufactures, distributes, analyzes, dispenses, or possesses a controlled substance. However, the director may not require separate registration for a practitioner engaged in research with a nonnarcotic controlled substance listed in Schedules II through V if the registrant is already registered under this subchapter in another capacity.

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.

Sec. 481.062. EXEMPTIONS. (a) The following persons are not required to register and may possess a controlled substance under this chapter:

(1) an agent or employee of a registered manufacturer, distributor, analyzer, or dispenser of the controlled substance 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; or

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

(A) a Texas Department of Health 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.

(b) The director by rule may waive the requirement for registration of certain manufacturers, distributors, or dispensers if the director finds it consistent with the public health and safety and if the attorney general of the United States has issued a similar waiver under the Federal Controlled Substances Act.

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.

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. 481.063. REGISTRATION APPLICATION; ISSUANCE OR DENIAL. (a) The director may refuse to issue a registration to a person to manufacture, distribute, analyze, or conduct research with a controlled substance if the person fails or refuses to provide to the director a consent form signed by the person granting the director the right to inspect the person's controlled premises and any record, controlled substance, or other item covered by this chapter.

(b) The director may not issue a registration to a person to dispense a controlled substance unless the director receives a consent form signed by the person granting the director the right to inspect records as required by this chapter.

(c) The director shall register a person to manufacture, distribute, or analyze a controlled substance listed in Schedules II through V if:

(1) the person furnishes the director evidence that the person is registered for that purpose under the Federal Controlled Substances Act;

(2) the person has made proper application and paid the applicable fee; and

(3) the person has not been found by the director to have violated a provision of Subsection (e).

(d) The director shall register a person to dispense or conduct research with a controlled substance listed in Schedules II through V if the person:

(1) is a practitioner licensed under the laws of this

state;

(2) has made proper application and paid the applicable fee; and

(3) has not been found by the director to have violated a provision of Subsection (e).

(e) An application for registration to manufacture, distribute, analyze, dispense, or conduct research with a controlled substance may be denied on a finding that the applicant:

(1) has furnished material information in an application filed under this chapter that the applicant knows is false or fraudulent;

(2) has been convicted of or placed on community supervision or other probation for:

(A) a felony;

(B) a violation of this chapter or of Chapters 482-485; or

(C) an offense reasonably related to the registration sought;

(3) has voluntarily surrendered or has had suspended, denied, or revoked a registration or application for registration to manufacture, distribute, analyze, or dispense controlled substances under the Federal Controlled Substances Act;

(4) has had suspended, probated, or revoked a registration or a practitioner's license under the laws of this state or another state;

(5) has intentionally or knowingly failed to establish and maintain effective security controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels as provided by federal regulations or laws, this chapter, or a rule adopted under this chapter;

(6) has intentionally or knowingly failed to maintain records required to be kept by this chapter or a rule adopted under this chapter;

(7) has refused to allow an inspection authorized by this chapter or a rule adopted under this chapter;

(8) has intentionally or knowingly violated this chapter or a rule adopted under this chapter; or

(9) has voluntarily surrendered a registration that has not been reinstated.

(f) The director may inspect the premises or establishment of an applicant for registration in accordance with this chapter.

(g) A registration is valid until the first anniversary of the date of issuance and may be renewed annually under rules adopted by the director, unless a rule provides for a longer period of validity or renewal.

(h) Chapter 2001, Government Code, does not apply to a denial of a registration under Subsection (e)(2)(A) or (B), (e)(3), (e)(4), or (e)(9).

(i) For good cause shown, the director may probate the denial of an application for registration. If a denial of an application is probated, the director may require the person to report regularly to the department on matters that are the basis of the probation or may limit activities of the person to those prescribed by the director, or both.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 1100, Sec. 5.02(f), eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 790, Sec. 19, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 745, Sec. 8, eff. Jan. 1, 1998; Acts 2001, 77th Leg., ch. 251, Sec. 4, eff. Sept. 1, 2001.

Sec. 481.064. REGISTRATION FEES. (a) The director may charge a nonrefundable fee of not more than $25 before processing an application for annual registration. The director by rule shall set the amount of the fee at the amount that is necessary to cover the cost of administering and enforcing this subchapter. Except as provided by Subsection (b), registrants shall pay the fees to the director.

(b) The director may authorize a contract between the department and an appropriate state agency for the collection and remittance of the fees. The director by rule may provide for remittance of the fees collected by state agencies for the department.

(c) The director shall deposit the collected fees to the credit of the operator's and chauffeur's license account in the

general revenue fund. The fees may be used only by the department in the administration or enforcement of this subchapter.
Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 745, Sec. 9, eff. Jan. 1, 1998; Acts 2001, 77th Leg., ch. 251, Sec. 5, eff. Sept. 1, 2001.

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. 481.066. VOLUNTARY SURRENDER, CANCELLATION, SUSPENSION, PROBATION, OR REVOCATION OF REGISTRATION. (a) The director may accept a voluntary surrender of a registration.

(b) The director may cancel, suspend, or revoke a registration, place on probation a person whose license has been suspended, or reprimand a registrant for a cause described by Section 481.063(e).

(c) The director may cancel a registration that was issued in error.

(d) The director may limit the cancellation, suspension, probation, or revocation to the particular schedule or controlled substance within a schedule for which grounds for cancellation, suspension, probation, or revocation exist.

(e) After accepting the voluntary surrender of a registration or ordering the cancellation, suspension, probation, or revocation of a registration, the director may seize or place under seal all controlled substances owned or possessed by the registrant under the authority of that registration. If the director orders the cancellation, suspension, probation, or revocation of a registration, a disposition may not be made of the seized or sealed substances until the time for administrative appeal of the order has elapsed or until all appeals have been concluded, except that the director may order the sale of perishable substances and deposit of the proceeds of the sale in a special interest-bearing account in the general revenue fund. When a surrender or cancellation, suspension, probation, or revocation order becomes final, all controlled substances may be forfeited to the state as provided under Subchapter E.

(f) The operation of a registrant in violation of this section is a public nuisance, and the director may apply to any court of competent jurisdiction for an injunction suspending the registration of the registrant.

(g) Chapter 2001, Government Code, applies to a proceeding under this section to the extent that that chapter does not conflict with this subchapter. Chapter 2001, Government Code, does not apply to a cancellation, suspension, probation, or revocation of a registration for a cause described by Section 481.063(e)(2)(A) or (B), (e)(3), (e)(4), or (e)(9).

(h) The director shall promptly notify appropriate state agencies of an order accepting a voluntary surrender or canceling, suspending, probating, or revoking a registration and the forfeiture of controlled substances.

(i) The director shall give written notice to the applicant or registrant of the acceptance of a voluntary surrender of a registration, or of the cancellation, suspension, probation, revocation, or denial of a registration. The notice shall be sent by certified mail, return receipt requested, to the most current address of the applicant or registrant contained in department files.

(j) After a voluntary surrender, cancellation, suspension, probation, revocation, or denial of a registration, on petition of the applicant or former registrant, the director may issue or reinstate the registration for good cause shown by the petitioner.
Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 745, Sec. 10, eff. Jan. 1, 1998; Acts

2001, 77th Leg., ch. 251, Sec. 6, eff. Sept. 1, 2001.

Sec. 481.067. RECORDS. (a) A person who is registered 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 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.

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 director of the Texas Commission on Alcohol and Drug Abuse, 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.

Sec. 481.069. ORDER FORMS. A registrant may not distribute or order a controlled substance listed in Schedule I or II to or from another registrant except under an order form. A registrant complying with the federal law concerning order forms is in compliance with this section.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 1100, Sec. 5.02(g), eff. Sept. 1, 1989.

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. 481.073. COMMUNICATION OF PRESCRIPTIONS BY AGENT. (a) Only a practitioner defined by Section 481.002(39)(A) and an agent designated in writing by the practitioner in accordance with rules adopted by the department may communicate a prescription by telephone. A pharmacy that receives a telephonically communicated prescription shall promptly write the prescription and file and retain the prescription in the manner required by this subchapter. A practitioner who designates an agent to communicate prescriptions shall maintain the written designation of the agent in the practitioner's usual place of business and shall make the designation available for inspection by investigators for the Texas State Board of Medical Examiners, the State Board of Dental Examiners, the State Board of Veterinary Medical Examiners, and the department. 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 section.

(b) On the request of a pharmacist, a practitioner shall furnish a copy of the written designation authorized under Subsection (a).

(c) This section 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.
Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 251, Sec. 9, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 14.794, eff. Sept. 1, 2001.

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 rule of the director or as provided by Subsection (o) or Section 481.075(j) or (m), a person may not dispense or administer a controlled substance listed in Schedule II without the written prescription of a practitioner on an official prescription form that meets the requirements of and is completed by the practitioner in accordance with Section 481.075. In an emergency, a person may dispense or administer a controlled substance listed in Schedule II 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 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).

(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 a written prescription, completed in the manner required by Section 481.075, to be delivered in person or mailed to the dispensing pharmacist at the pharmacy where the prescription was dispensed. The envelope of a prescription delivered by mail must be postmarked not later than the seventh day after the date the prescription was authorized. On receipt of the prescription, the dispensing pharmacy shall file the transcription of the telephonically communicated prescription and the pharmacy copy and shall send information to the director as required by Section 481.075.

(d) Except as specified in Subsections (e) and (f) of this section, a person may not fill a prescription for a controlled substance listed in Schedule II after the end of the seventh day after the date on which the prescription is issued. A person may not refill a prescription for a substance listed in Schedule II.

(e) The partial filling of a prescription for a controlled substance listed in Schedule II is permissible, if the pharmacist is unable to supply the full quantity called for in a written or emergency oral prescription and the pharmacist makes a notation of the quantity supplied on the face of the written prescription or written record of the emergency oral prescription. The remaining portion of the prescription may be filled within 72 hours of the first partial filling; however, if the remaining portion is not or cannot be filled within the 72-hour period, the pharmacist shall so notify the prescribing individual practitioner. No further quantity may be supplied beyond 72 hours without a new prescription.

(f) A prescription for a Schedule II controlled substance written for a patient in a long-term care facility (LTCF) or for a 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 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 patient. The pharmacist must record the prescription on an official prescription form and must indicate on the form whether the patient is "terminally ill" or an "LTCF patient." A prescription that is partially filled and does not contain the notation "terminally ill" or "LTCF patient" is considered to have been filled in violation of this chapter. For each partial filling, the dispensing pharmacist shall record on the back of the official prescription form 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 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 written, oral, or telephonically communicated prescription of a practitioner defined by Section 481.002(39)(A), 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.

(h) A pharmacist may dispense a controlled substance listed in Schedule III, IV, or V under an original written prescription issued by a practitioner defined by Section 481.002(39)(C) and only if the pharmacist determines that the prescription was issued for a valid medical purpose and in the course of professional practice. A

prescription issued under this subsection may not be filled or refilled later than six months after the date the prescription is issued, and a prescription authorized to be refilled on the original prescription may not be refilled more than five times.

(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, followed by the number written as a word, if the prescription is written; or

(B) if the prescription is communicated orally or telephonically, as transcribed by the receiving pharmacist;

(2) the date of issue;

(3) 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;

(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 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.

(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.

(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) A pharmacist may dispense a Schedule II controlled substance pursuant to a facsimile copy of an official prescription completed in the manner required by Section 481.075 and transmitted by the practitioner or the practitioner's agent to the pharmacy if:

(1) the prescription is written for:

(A) a Schedule II narcotic or nonnarcotic substance for a patient in a long-term care facility (LTCF), and the practitioner notes on the prescription "LTCF patient";

(B) a Schedule II narcotic product to be compounded for the direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous, or intraspinal infusion; or

(C) a Schedule II narcotic substance for a patient with a medical diagnosis documenting a terminal illness or a patient enrolled in a hospice care program certified or paid for by Medicare under Title XVIII, Social Security Act (42 U.S.C. Section 1395 et seq.), as amended, by Medicaid, or by a hospice program that is licensed under Chapter 142, and the practitioner or the practitioner's agent notes on the prescription "terminally ill" or "hospice patient"; and

(2) after transmitting the prescription, the prescribing practitioner or the practitioner's agent:

(A) writes across the face of the official prescription "VOID--sent by fax to (name and telephone number of receiving pharmacy)"; and

(B) files the official prescription in the patient's medical records instead of delivering it to the patient.

(p) On receipt of the prescription, the dispensing pharmacy shall file the facsimile copy of the prescription and shall send information to the director as required by Section 481.075.

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; Acts 2005, 79th Leg., ch. 349, Sec. 21(a), eff. Sept. 1, 2005; Acts 2005, 79th Leg., ch. 1345, Sec. 44(a), eff. Sept. 1, 2005.

Sec. 481.075. OFFICIAL PRESCRIPTION PROGRAM. (a) A practitioner who prescribes a controlled substance listed in Schedule II shall, except as provided by rule adopted under Section 481.0761, record the prescription on an official prescription form that includes the information required by this section.

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

(c) The director shall issue official prescription forms to practitioners for a fee covering the actual cost of printing, processing, and mailing the forms at 100 a package. Before mailing or otherwise delivering prescription forms to a practitioner, the director shall print on each form the number of the form and any other information the director determines is necessary.

(d) 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.

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

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

(A) the date the prescription is written;

(B) the controlled substance prescribed;

(C) the quantity of controlled substance prescribed, shown numerically followed by the number written as a word;

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

(E) the practitioner's name, address, department registration number, and Federal Drug Enforcement Administration number; and

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

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

(3) the signatures of the prescribing practitioner and the dispensing pharmacist.

(f) Not more than one prescription may be recorded on an official prescription form, except as provided by rule adopted under Section 481.0761.

(g) Except for an oral prescription prescribed under Section 481.074(b), the prescribing practitioner shall:

(1) legibly fill in, or direct a designated agent to legibly fill in, on the official prescription form, 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 director 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) sign the official prescription form and give the form to the person authorized to receive the prescription.

(h) In the case of an oral prescription prescribed under Section 481.074(b), the prescribing practitioner shall give the dispensing pharmacy the information needed to complete the form.

(i) Each dispensing pharmacist shall:

(1) fill in on the official prescription form each item of information given orally to the dispensing pharmacy under Subsection (h), the date the prescription is filled, and 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 information required by the director, including any information required to complete an official prescription form, to the director by electronic transfer or another form approved by the director not later than the 15th day after the last day of the month in which the prescription is completely filled.

(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 on a form that meets the requirements of this section.

(k) Not later than the 30th day after the date a practitioner's department registration number, Federal Drug Enforcement Administration number, or license to practice has been denied, suspended, canceled, surrendered, or revoked, the practitioner shall return to the department 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

prescribe a controlled substance;

(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) 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 director; and

(B) is approved by the director in consultation with the Texas State Board of Pharmacy.

(n) Repealed by Acts 1999, 76th Leg., ch. 145, Sec. 5(2), eff. Sept. 1, 1999.

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.

Sec. 481.076. OFFICIAL PRESCRIPTION INFORMATION. (a) The director may not permit any person to have access to information submitted to the director under Section 481.075 except:

(1) an investigator for the Texas State Board of Medical Examiners, the Texas State Board of Podiatric Medical Examiners, the State Board of Dental Examiners, the State Board of Veterinary Medical Examiners, or the Texas State Board of Pharmacy;

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

(3) if the director finds that proper need has been shown to the director:

(A) a 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;

(B) a pharmacist or practitioner who is a physician, dentist, veterinarian, or podiatrist and is inquiring about the recent Schedule II prescription history of a particular patient of the practitioner; or

(C) a pharmacist or practitioner who is inquiring about the person's own dispensing or prescribing activity.

(b) This section does not prohibit the director from creating, using, or disclosing statistical data about information received by the director under this section if the director 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 director by rule shall design and implement a system for submission of information to the director by electronic or other means and for retrieval of information submitted to the director under this section and Section 481.075. The director shall use automated information security techniques and devices to preclude improper access to the information. The director shall submit the system design to the Texas State Board of Pharmacy and the Texas State Board of Medical Examiners for review and approval or 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 director 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 or evidentiary purposes in connection with the functions of an agency listed in Subsection (a)(1); or

(3) dissemination by the director 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 director 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 director not later than the end of the 12th calendar month after the month in which the identity is entered into the system. However, the director 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 director permits access to information under Subsection (a)(2) relating to a person licensed or regulated by an agency listed in Subsection (a)(1), the director shall notify and cooperate with that agency regarding the disposition of the matter before taking action against the person, unless the director determines that notification is reasonably likely to interfere with an administrative or criminal investigation or prosecution.

(g) If the director permits access to information under Subsection (a)(3)(A) relating to a person licensed or regulated by an agency listed in Subsection (a)(1), the director 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 director withholds notification to an agency under Subsection (f), the director shall notify the agency of the disclosure of the information and the reason for withholding notification when the director determines that notification is no longer likely to interfere with an administrative or criminal investigation or prosecution.

(i) Information submitted to the director under Section 481.075 is confidential and remains confidential regardless of whether the director permits access to the information under this section.

(j) Repealed by Acts 1999, 76th Leg., ch. 145, Sec. 5(3), eff. Sept. 1, 1999.

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.

Sec. 481.0761. RULES; AUTHORITY TO CONTRACT. (a) The director shall consult with the Texas State Board of Pharmacy and by rule establish and revise as necessary a standardized database format that may be used by a pharmacy to transmit the information required by Section 481.075(i) to the director electronically or to deliver the information on storage media, including disks, tapes, and cassettes.

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

(1) remove a controlled substance listed in Schedule II 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 Schedule II 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 director by rule may:

(1) permit more than one prescription to be administered or dispensed and recorded on one official prescription form;

(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;

(5) establish a procedure to control the release of information under Sections 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 director 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.

(e) In adopting a rule relating to the electronic transfer of information under this subchapter, the director 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. The director may not adopt a rule relating to the electronic transfer of information under this subchapter that imposes a fee in addition to the fee authorized by Section 481.064.

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

(g) Repealed by Acts 1999, 76th Leg., ch. 145, Sec. 5(4), eff. Sept. 1, 1999.

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.

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 and Section 481.078 do not apply to a person to whom a registration has been issued under Section 481.063.

(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) If the recipient does not represent a business, the recipient shall present to the manufacturer, wholesaler, retailer, or other person a permit issued in the name of the recipient by the department under Section 481.078.

(f) Except as provided by Subsection (h), a manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes to a person in this state a chemical precursor subject to Subsection (a) shall submit, at least 21 days before the delivery of the chemical precursor, a report of the transaction on a form obtained from the director that includes the information required by Subsection (d).

(g) The director shall supply to a manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes a chemical precursor subject to Subsection (a) a form for the submission of:

(1) the report required by Subsection (f);

(2) the name and measured amount of the chemical precursor delivered; and

(3) any other information required by the director.

(h) The director may authorize a manufacturer, wholesaler, retailer, or other person to submit a comprehensive monthly report instead of the report required by Subsection (f) if the director determines that:

(1) there is a pattern of regular supply and purchase of the chemical precursor between the furnisher and the recipient; or

(2) the recipient has established a record of use of the chemical precursor solely for a lawful purpose.

(i) A manufacturer, wholesaler, retailer, or other person who receives from a source outside this state a chemical precursor subject to Subsection (a) or 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) Unless the person is the holder of only a permit issued under Section 481.078(b)(1), a manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any chemical precursor subject to Subsection (a) or a permit holder, 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; Acts 2005, 79th Leg., ch. 282, Sec. 4, eff. Aug. 1, 2005.

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, Sec. 5, eff. Aug. 1, 2005.

Sec. 481.078. CHEMICAL PRECURSOR TRANSFER PERMIT. (a) A person must obtain a chemical precursor transfer permit from the department to be eligible:

(1) to sell, transfer, or otherwise furnish a chemical precursor subject to Section 481.077(a) to a person in this state;

(2) to receive a chemical precursor subject to Section 481.077(a) from a source outside this state; or

(3) to receive a chemical precursor subject to Section 481.077(a) if the person, in receiving the chemical precursor, does not represent a business.

(b) The director by rule shall adopt procedures and standards for the issuance and renewal or the voluntary surrender, cancellation, suspension, probation, or revocation of:

(1) a permit for one sale, transfer, receipt, or otherwise furnishing of a chemical precursor; or

(2) a permit for more than one sale, transfer, receipt, or otherwise furnishing of a chemical precursor.

(c) A permit issued or renewed under Subsection (b)(1) is valid only for the transaction indicated on the permit. A permit issued or renewed under Subsection (b)(2) is valid for one year after the date of issuance or renewal.

(d) A permit holder must report in writing or by telephone to the director a change in the holder's business name, address, area code, and telephone number not later than the seventh day after the date of the change.

(e) The director may not issue a permit under this section unless the person applying for the permit delivers to the director a written consent to inspect signed by the person that grants to the director the right to inspect any controlled premises, record, chemical precursor, or other item governed by this chapter in the care, custody, or control of the person. After the director receives the consent, the director may inspect any controlled premises, record, chemical precursor, or other item to which the consent applies.

(f) The director may adopt rules to establish security controls and provide for the inspection of a place, entity, or item to which a chemical precursor transfer permit applies.
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. 18, eff. Jan. 1, 1998; Acts 2001, 77th Leg., ch. 251, Sec. 13, eff. Sept. 1, 2001.

Sec. 481.080. CHEMICAL LABORATORY APPARATUS RECORD-KEEPING REQUIREMENTS AND PENALTIES. (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 and Section 481.081 do not apply to a person to whom a registration has been issued under Section 481.063.

(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) If the recipient does not represent a business, the recipient shall present to the manufacturer, wholesaler, retailer, or other person a permit issued in the name of the recipient by the department under Section 481.081.

(g) Except as provided by Subsection (i), a manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes to a person in this state a chemical laboratory apparatus subject to Subsection (a) shall, at least 21 days before the delivery of the apparatus, submit a report of the transaction on a form obtained from the director that includes the information required by Subsection (e).

(h) The director shall supply to a manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes a chemical laboratory apparatus subject to Subsection (a) a form for the submission of:

(1) the report required by Subsection (g);

(2) the name and number of apparatus delivered; and

(3) any other information required by the director.

(i) The director may authorize a manufacturer, wholesaler, retailer, or other person to submit a comprehensive monthly report instead of the report required by Subsection (g) if the director determines that:

(1) there is a pattern of regular supply and purchase of the apparatus between the furnisher and the recipient; or

(2) the recipient has established a record of use of the apparatus solely for a lawful purpose.

(j) A manufacturer, wholesaler, retailer, or other person who receives from a source outside this state a chemical laboratory apparatus subject to Subsection (a) or 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 permit holder, commercial purchaser, or other person who receives such an apparatus unless the person is the holder of only a permit issued under Section 481.081(b)(1). 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.

Sec. 481.081. CHEMICAL LABORATORY APPARATUS TRANSFER PERMIT. (a) A person must obtain a chemical laboratory apparatus transfer permit from the department to be eligible:

(1) to sell, transfer, or otherwise furnish an apparatus subject to Section 481.080(a) to a person in this state;

(2) to receive an apparatus subject to Section 481.080(a) from a source outside this state; or

(3) to receive an apparatus subject to Section 481.080(a) if the person, in receiving the apparatus, does not represent a business.

(b) The director by rule shall adopt procedures and standards for the issuance and renewal or the voluntary surrender, cancellation, suspension, probation, or revocation of:

(1) a permit for one sale, transfer, receipt, or otherwise furnishing of a chemical laboratory apparatus; or

(2) a permit for more than one sale, transfer, receipt, or otherwise furnishing of a chemical laboratory apparatus.

(c) A permit issued or renewed under Subsection (b)(1) is valid only for the transaction indicated on the permit. A permit issued or renewed under Subsection (b)(2) is valid for one year after the date of issuance or renewal.

(d) A permit holder must report in writing or by telephone to the director a change in the holder's business name, address, area code, and telephone number not later than the seventh day after the date of the change.

(e) The director may not issue a permit under this section unless the person applying for the permit delivers to the director a written consent to inspect signed by the person that grants to the director the right to inspect any controlled premises, record, chemical laboratory apparatus, or other item governed by this chapter in the care, custody, or control of the person. After the director receives the consent, the director may inspect any controlled premises, record, chemical laboratory apparatus, or other item to which the consent applies.

(f) The director may by rule establish security controls and provide for the inspection of a place, entity, or item to which a chemical laboratory apparatus transfer permit applies.

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. 20, eff. Jan. 1, 1998; Acts 2001, 77th Leg., ch. 251, Sec. 15, eff. Sept. 1, 2001.

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:

Alfentanil;
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;
Sufentanil;
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;
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;

(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:

Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl) -4-piperidinyl]-N-phenylacetamide);
Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropana mide);
Alphaprodine;
Anileridine;
Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl] -N-phenylpropanamide);
Beta-hydroxy-3-methylfentanyl;
Bezitramide;
Carfentanil;
Dihydrocodeine not listed in Penalty Group 3 or 4;
Diphenoxylate not listed in Penalty Group 3 or 4;
Fentanyl or alpha-methylfentanyl, or any other derivative of Fentanyl;
Isomethadone;
Levomethorphan;
Levorphanol;
Metazocine;
Methadone;
Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;

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);

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

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

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;

Racemorphan;

Remifentanil; and

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

(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; and

(10) Ketamine.

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.

Sec. 481.1021. PENALTY GROUP 1-A. Penalty Group 1-A consists of lysergic acid diethylamide (LSD), including its salts, isomers, and salts of isomers.

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

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:

alpha-ethyltryptamine;

4-bromo-2, 5-dimethoxyamphetamine (some trade or other names: 4-bromo- 2, 5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2, 5-DMA);

4-bromo-2, 5-dimethoxyphenethylamine;

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);

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

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

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

Dimethyltryptamine (trade or other name : DMT);

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);

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.);

Mescaline;

5-methoxy-3, 4-methylenedioxy amphetamine;

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

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);

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);

Psilocin;

Psilocybin;

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;

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); and

(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);

Etorphine Hydrochloride;

Fenethylline and its salts;

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- trimethylbenzeneethaneamine; N,N,alpha-trimethylphenethylamine), its salts, optical isomers, and salts of optical isomers.

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

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.

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;

Chlordiazepoxide;

Chlorhexadol;

Clobazam;

Clonazepam;

Clorazepate;

Clotiazepam;

Cloxazolam;

Delorazepam;

Diazepam;

Estazolam;

Ethyl loflazepate;

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);
Triazolam;
Zaleplon; and
Zolpidem;

(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); and

(9) an anabolic steroid or any substance that is chemically or pharmacologically related to testosterone, other than an estrogen, progestin, or corticosteroid, and promotes muscle growth, including:

Boldenone;
Chlorotestosterone (4-chlortestosterone);
Clostebol;
Dehydrochlormethyltestosterone;
Dihydrotestosterone (4-dihydrotestosterone);
Drostanolone;
Ethylestrenol;
Fluoxymesterone;
Formebulone;
Mesterolone;
Methandienone;
Methandranone;
Methandriol;
Methandrostenolone;
Methenolone;
Methyltestosterone;
Mibolerone;
Nandrolone;
Norethandrolone;
Oxandrolone;
Oxymesterone;
Oxymetholone;
Stanolone;
Stanozolol;
Testolactone;
Testosterone; and

Trenbolone.

(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.

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, and 2 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.

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. However, a person who supplies the substance to the church must register and maintain appropriate records of receipts and disbursements in accordance with rules adopted by the director. 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, 481.121, 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.

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.

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 punishable by imprisonment in the institutional division of 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 punishable by imprisonment in the institutional division of 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.

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) punishable by imprisonment in the institutional division of 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.

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

(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 punishable by imprisonment in the institutional division of 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.

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 punishable by imprisonment in the institutional division of 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.

Sec. 481.115. OFFENSE: POSSESSION OF SUBSTANCE IN PENALTY GROUP 1. (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, 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 punishable by imprisonment in the institutional division of 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.

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.

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) punishable by imprisonment in the institutional division of 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.

Added by Acts 1997, 75th Leg., ch. 745, Sec. 26, eff. Jan. 1, 1998.

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 punishable by imprisonment in the institutional division of 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.

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.

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 punishable by imprisonment in the institutional division of 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.

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.

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 punishable by imprisonment in the institutional division of 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.

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.

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.

(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.

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.

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) punishable by imprisonment in the institutional division of 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.

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) punishable by imprisonment in the institutional division of 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.

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.

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, 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.

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 not in any part intended for human consumption;

(2) 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

(3) 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.

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 registered under Section 481.063; 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 or 1-A;

(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; Acts 2005, 79th Leg., ch. 282, Sec. 6, eff. Aug. 1, 2005.

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, Sec. 7, eff. Aug. 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.

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.

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 an offense under this chapter punishable by imprisonment in the institutional division of 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.

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 director under Section 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.

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 Sections 481.070-481.075;

(2) manufactures a controlled substance not authorized by the person's 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 director;

(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 481.075(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

(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, 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.

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 under an order form as required by Section 481.069;

(2) uses in the course of manufacturing, prescribing, or distributing a controlled substance a 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; or

(C) through use of a fraudulent oral or telephonically communicated 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.

(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.

(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.

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 V.T.C.A., 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 V.T.C.A., 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 separate apparatus 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.

(b) An offense otherwise punishable as a state jail felony under Section 481.112, 481.113, 481.114, or 481.120 is punishable as a felony of the third 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; or

(2) in, on, or within 300 feet of the premises of a public swimming pool or video arcade facility.

(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), 481.117(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 premises of a school or a public or private youth center; 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), 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 or the premises of a public or private youth center; or

(2) on a school bus.

(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 or the premises of a public or private youth center; or

(2) on a school bus.

(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 or the

premises of a public or private youth center; or

(2) on a school bus.

(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.

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, Sec. 9.004, eff. Sept. 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 hold a chemical precursor transfer permit as required by Section 481.078 at the time of the transaction;

(2) does not comply with Section 481.077 or 481.0771;

(3) knowingly makes a false statement in a report or record required by Section 481.077, 481.0771, or 481.078; or

(4) knowingly violates a rule adopted under Section 481.077, 481.0771, or 481.078.

(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; Acts 2005, 79th Leg., ch. 282, Sec. 8, eff. Aug. 1, 2005.

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 have a chemical laboratory apparatus transfer permit as required by Section 481.081 at the time of the transaction;

(2) does not comply with Section 481.080;

(3) knowingly makes a false statement in a report or record required by Section 481.080 or 481.081; or

(4) knowingly violates a rule adopted under Section 481.080 or 481.081.

(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.

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, 481.113, 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.

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, 481.113, 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.

Added by Acts 2003, 78th Leg., ch. 712, Sec. 2, eff. Sept. 1, 2003.

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.

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.

Sec. 481.152. SEIZURE AND SUMMARY FORFEITURE AND DESTRUCTION 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 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 or a peace officer may summarily destroy the property under the rules of the department.

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.

Sec. 481.153. SEIZURE AND SUMMARY FORFEITURE AND DESTRUCTION 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 or a peace officer may destroy the property under the rules of the department.

Amended by Acts 1991, 72nd Leg., ch. 141, Sec. 1, eff. Sept. 1, 1991.

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 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.

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 to:

(1) retain the property or plant for its official 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 for a purpose described by Section 481.065(a); 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 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.

Sec. 481.160. DESTRUCTION 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 may summarily destroy the property or plant without a court order 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. An inference or presumption of spoliation does not apply to a property or plant destroyed 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 and summarily forfeited and destroyed by a law enforcement agency 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).

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; Acts 2005, 79th Leg., ch. 1224, Sec. 19(2), eff. Sept. 1, 2005.

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 Texas Board of Health 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 Texas Board of Health establishes the program, the board shall create a research program review board. The review board members are appointed by the Texas Board of Health and serve at the will of the board.

(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.

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 Texas Board of Health, 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 Texas Board of Health may terminate the distribution of tetrahydrocannabinols and their derivatives to a research program as it determines necessary.

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

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 State Board of Medical Examiners 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.

Sec. 481.204. ACQUISITION AND DISTRIBUTION OF CONTROLLED SUBSTANCES. (a) The Texas Board of Health 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 Food and Drug Administration, and the Federal Drug Enforcement Administration.

(b) The Texas Board of Health 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 Texas Board of Health 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.

Sec. 481.205. RULES; REPORTS. (a) The Texas Board of Health shall adopt rules necessary for implementing the research program.

(b) If the Texas Board of Health 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.