CHAPTER 227

S.B. No. 639

An Act relating to the Texas Controlled Substances Act and to the addition to and reclassification of certain substances in schedules and penalty groups; proceedings related to the denial, revocation, or suspension of registrations required under the Act; offenses related to the possession, manufacture, and delivery of controlled substances and penalties for violations of the Act; requirements for transcribing, filling, dispensing, and delivering certain prescriptions; definitions and records and reports required to be maintained under the Act; provisions relating to certain forms; certain commerical and fraud offenses and the imposition of civil penalties for certain activities; cooperative arrangements among agencies; forfeiture proceedings and the disposition of proceeds of forfeiture; and to the continued effect of certain provisions of the Act; amending the Texas Controlled Substances Act, as amended (Article 4476-15, Vernon's Texas Civil Statutes), by amending Sections 1.02, 2.03, 2.04, 2.05, 2.06, 2.07, 3.06, 3.08, 4.08, 4.09, 5.081, and 5.14 and by amending Subsections (a) of Section 3.04, (a) of Section 3.05, (a) of Section 3.09, (b) of Section 4.012, (b), (c), (d), and (e) of Section 4.02, (a) of Section 5.03, (a) and (b) of Section 5.02, (a) of Section 5.07, and (b) and (f) of Section 5.08; by adding Section 4.044; and repealing Section 9, Chapter 570, Acts of the 67th Legislature, Regular Session, 1981; Section 29, Chapter 425, Acts of the 68th Legislature, Regular Session, 1983; and Section 3, Chapter 753, Acts of the 68th 1 Legislature, Regular Session, 1983.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 1.02, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 1.02. DEFINITIONS. For the purposes of this Act:

"(1) 'Administer' means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

"(A) a practitioner (or, in his presence, by his authorized agent), 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. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman when acting in the usual and lawful course of his employment.

"(3) [~~'Bureau' means the Bureau of Narcotics and Dangerous Drugs of the United States Department of Justice or its successor agency.~~

"[~~(4)~~] 'Commissioner' means the Commissioner of Health of the State Department of Health or his designee.

"*(4)* [~~(5)~~] 'Controlled substance' means a drug, substance, or immediate precursor listed in Schedules I through V and Penalty Groups 1 through 4 of this Act.

"[~~(6) 'Federal Controlled Substances Act' means the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970 (Public Law 91/513) or its successor.~~]

"*(5)* [~~(7)~~] 'Counterfeit substance' means:

"*(A) a substance which is purported to be a controlled substance but is chemically different from the controlled substance it is purported to be; or*

"*(B)* a controlled substance which, or the container or labeling of which, without authorization bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

"*(6)* [~~(8)~~] 'Deliver' or 'delivery' means the actual or constructive transfer from one person to another of a controlled substance, *counterfeit substance,* abusable glue or aerosol paint, or drug paraphernalia, whether or not there is an agency relationship. For purposes of this Act, it also includes an offer to sell a controlled substance, *counterfeit substance,* abusable glue or aerosol paint, or drug paraphernalia. Proof of an offer to sell must be corroborated by a person other than the offeree or by evidence other than a statement of the offeree.

"*(7) 'Designated agent' means an individual designated under Subsection (c) of Section 3.08 of this Act and in accordance with rules of the Department of Public Safety to communicate a practitioner's instructions to a pharmacist.*

"*(8)* [~~(9)~~] 'Director' means the Director of the Texas Department of Public Safety or an employee of the department designated by him.

"*(9)* [~~(10)~~] 'Dispense' means to deliver a controlled substance to an ultimate user or research subject by, or pursuant to the lawful order of, a practitioner (in the course of professional practice or research), including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for such delivery.

"*(10)* [~~(11)~~] 'Dispenser' means a *practitioner, institutional practitioner, pharmacist, or pharmacy that* [~~person who~~] dispenses *a controlled substance.*

"*(11)* [~~(12)~~] 'Distribute' means to deliver other than by administering or dispensing a controlled substance.

"*(12)* [~~(13)~~] 'Distributor' means a person who distributes.

"*(13)* [~~(14)~~] 'Drug' means:

"(A) any substance recognized as a drug in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;

"(B) any substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals;

"(C) any substance (other than food) intended to affect the structure or any function of the body of man or animals; and

"(D) any substance intended for use as a component of any substance specified in Subdivision (A), (B), or (C) of this subsection. It does not include devices or their components, parts, or accessories.

"*(14) 'Drug paraphernalia' means equipment, a product, or a material of any kind 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 Act or in injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this Act. It includes, but is not limited to:

"(A) a kit used or intended for use in planting, propagating, cultivating, growing, or harvesting any species of plant that is a controlled substance or from which a controlled substance can be derived;

"(B) a 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 any 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 diluent or adulterant, such as quinine hydrochloride, mannitol, mannite, dextrose, or lactose, used or intended for use in cutting a 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, such as:

"(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.

"(15) 'Federal Controlled Substances Act' means the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970 (Public Law 91-513) or its successor.

"(16) 'Federal Drug Enforcement Administration' means the Drug Enforcement Administration of the United States Department of Justice or its successor agency.

"(17) 'Hospital' means:

"(A) a general hospital or special hospital, as those terms are defined by Section 2, Texas Hospital Licensing Law (Article 4437f, Vernon's Texas Civil Statutes); or

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

"(18) [~~(15)~~] 'Immediate precursor' means a substance which the commissioner has found to be and by rule designates as being a principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture of such controlled substance.

"(19) '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.

"(20) 'Lawful possession' means the possession of a controlled substance that has been obtained in accordance with state or federal law.

"(21) [~~(16)~~] 'Manufacture' means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance other than marihuana, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation, compounding, packaging, or labeling of a controlled substance:

"(A) by a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or

"(B) by a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for delivery.

"(22) [~~(17)~~] 'Marihuana' means the plant Cannabis sativa L., whether growing or not; the seeds thereof; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, or its seeds. However, it does not include the resin extracted from any part of such plant or any compound, manufacture, salt, derivative, mixture, or preparation of the resin; nor does it include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

"(23) 'Medical purpose' means the use of a controlled substance for the purpose of relieving or curing a mental or physical disease or infirmity.

"(24) '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.

"(25) [~~(18)~~] 'Narcotic drug' means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

"(A) opium and opiates, and any salt, compound, derivative, or preparation of opium or opiates;

"(B) any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in Subdivision (A) of this subsection, but not including the isoquinoline alkaloids of opium;

"(C) opium poppy and poppy straw; or

"(D) *cocaine, including its salts, isomers (whether optical, position, or geometric) and salts of those isomers;* coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, [~~isomer,~~] derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

"(26) [~~(19)~~] 'Opiate' means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under Section 2.09 of this Act, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

"(27) [~~(20)~~] 'Opium poppy' means the plant of the species Papaver somniferum L., except its seeds.

"(28) 'Patient' means a human or animal for which a drug is administered, dispensed, delivered, or prescribed by a practioner.

"(29) [~~(21)~~] 'Person' means any individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

"(30) 'Pharmacist' means a person licensed by the State Board of Pharmacy to practice pharmacy and who acts as an agent for a pharmacy.

"(31) '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 Act and other laws relating to pharmacy.

"(32) 'Pharmacy' means a facility licensed by the State Board of Pharmacy where a prescription for a controlled substance is received or processed in accordance with state or federal law.

"*(33)* [~~(22)~~] 'Poppy straw' means all parts, except the seeds, of the opium poppy, after mowing.

"*(34)* [~~(23)~~] 'Possession' means actual care, custody, control or management.

"*(35)* [~~(24)~~] 'Practitioner' means:

"(A) a physician, dentist, veterinarian, *podiatrist,* scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, analyze or conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state; or

"(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.

"(36) 'Prescribe' means the act of a practitioner to authorize a controlled substance to be dispensed to an ultimate user.

"(37) 'Prescription' means an order by a practitioner to a pharmacist for a controlled substance for a particular patient which specifies the date of issue, 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, the name and quantity of the controlled substance prescribed, and directions for use of the drug.

"(38) 'Principal place of business' means a location where a person manufactures, distributes, dispenses, analyzes, or possesses a controlled substance, but 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.

"*(39)* [~~(25)~~] 'Production' includes manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

"(40) 'Raw material' means a compound, material, substance, or equipment that is used or intended for use, alone or in any combination, in manufacturing, compounding, or processing a controlled substance.

"(41) 'Registrant' means a person who is registered under Section 3.03 of this Act.

"(42) 'Substitution' means the dispensing of a drug or a brand of drug other than that which is ordered or prescribed.

"(43) 'Triplicate prescription form' means an official Department of Public Safety prescription form used to administer, dispense, prescribe, or deliver to an ultimate user a controlled substance in Schedule II of this Act.

"*(44)* [~~(26)~~] 'Ultimate user' means a person who has lawfully obtained and possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

"[~~(27) 'Prescription' means an order by a practitioner to a pharmacist for a controlled substance for a particular patient which specifies the date of issue, 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, the name and quantity of the controlled substance prescribed, and directions for use of the drug.~~

"[~~(28) 'Raw material' means a compound, material, substance, or equipment that is used or intended for use, alone or in any combination, in manufacturing, compounding, or processing a controlled substance.~~

"[~~(29) 'Drug paraphernalia' means equipment, a product, or a material of any kind 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 Act or in injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this Act. It includes, but is not limited to:~~

"[~~(A) a kit used or intended for use in planting, propagating, cultivating, growing, or harvesting any species of plant that is a controlled substance or from which a controlled substance can be derived;~~

"[~~(B) a 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 any 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 diluent or adulterant, such as quinine hydrochloride, mannitol, mannite, dextrose, or lactose, used or intended for use in cutting a 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, such as:~~

"[~~(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.~~

"[~~(30) 'Believes' means, with respect to circumstances surrounding the conduct of an actor, that the actor has formed in his mind a conviction or assurance of the existence of such circumstances, even though such circumstances may not actually exist. Proof that an actor 'believes' in the existence of certain circumstances must include evidence that the actor has received information giving him reasonable cause to believe such circumstances exist, and evidence that the actor then takes action or makes statements indicating his reliance upon such information. Proof that an actor 'believes' in the existence of circumstances surrounding his conduct must be corroborated by a person other than the person informing the actor of such circumstances, or by evidence other than a statement of the person providing such information. An actor's belief in the existence of surrounding circumstances can be used to show his culpable mental state where expressly permitted in this Act.~~]"

SECTION 2. Sections 2.03, 2.04, 2.05, 2.06, and 2.07, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), are amended to read as follows:

"Section 2.03. SCHEDULE I. (a) Schedule I shall consist of the controlled substances listed in this section.

"(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

"*Alfentanil;*

"[~~(1)~~] Allylprodine;

"*Alpha-methylfentanyl or another derivative of Fentanyl;*

"[~~(2)~~] Benzethidine;

"[~~(3)~~] Betaprodine;

"[~~(4)~~] Clonitazene;

"[~~(5)~~] Diampromide;

"[~~(6)~~] Diethylthiambutene;

"[~~(7)~~] Difenoxin;

"[~~(8)~~] Dimenoxadol;

"[~~(9)~~] Dimethylthiambutene;

"[~~(10)~~] Dioxaphetyl butyrate;

"[~~(11)~~] Dipipanone;

"[~~(12)~~] Ethylmethylthiambutene;

"[~~(13)~~] Etonitazene;

"[~~(14)~~] Etoxeridine;
"[~~(15)~~] Furethidine;
"[~~(16)~~] Hydroxypethidine;
"[~~(17)~~] Ketobemidone;
"[~~(18)~~] Levophenacylmorphan;
"[~~(19)~~] Meprodine;
"[~~(20)~~] Methadol;
"[~~(21)~~] Moramide;
"[~~(22)~~] Morpheridine;
"[~~(23)~~] Noracymethadol;
"[~~(24)~~] Norlevorphanol;
"[~~(25)~~] Normethadone;
"[~~(26)~~] Norpipanone;
"[~~(27)~~] Phenadoxone;
"[~~(28)~~] Phenampromide;
"*Phencyclidine;*
"[~~(29)~~] Phenomorphan;
"[~~(30)~~] Phenoperidine;
"[~~(31)~~] Piritramide;
"[~~(32)~~] Proheptazine;
"[~~(33)~~] Properidine;
"[~~(34)~~] Propiram;
"*Tilidine;*
"[~~(35)~~] Trimeperidine [~~;~~
"[~~(36) Phencyclidine~~].

"(c) Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:
"[~~(1)~~] Acetorphine;
"[~~(2)~~] Acetyldihydrocodeine;
"[~~(3)~~] Benzylmorphine;
"[~~(4)~~] Codeine methylbromide;
"[~~(5)~~] Codeine-N-Oxide;
"[~~(6)~~] Cyprenorphine;
"[~~(7)~~] Desomorphine;
"[~~(8)~~] Dihydromorphine;
"[~~(9)~~] Drotebanol;
"[~~(10)~~] Etorphine (except hydrochloride salt);
"[~~(11)~~] Heroin;
"[~~(12)~~] Hydromorphinol;
"[~~(13)~~] Methyldesorphine;
"[~~(14)~~] Methyldihydromorphine;
"[~~(15)~~] Monoacetylmorphine;
"[~~(16)~~] Morphine methylbromide;
"[~~(17)~~] Morphine methylsulfonate;
"[~~(18)~~] Morphine-N-Oxide;
"[~~(19)~~] Myrophine;
"[~~(20)~~] Nicocodeine;
"[~~(21)~~] Nicomorphine;
"[~~(22)~~] Normorphine;
"[~~(23)~~] Pholcodine;
"[~~(24)~~] Thebacon.

"(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this paragraph only, the term 'isomer' includes the optical, position, and geometric isomers):

"[~~(1)~~] 4-bromo-2, 5-dimethoxyamphetamine (Some trade or other names: 4-bromo-2, 5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2, 5-DMA);

"[~~(2)~~] 2, 5-dimethoxyamphetamine (Some trade or other names: 2, 5-dimethoxy-alpha-methylphenethylamine; 2, 5-DMA);

"5-methoxy-3, 4-methylenedioxy amphetamine;

"[~~(3)~~] 4-methoxyamphetamine (Some trade or other names: 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine; PMA);

"[~~(4) 5-methoxy-3, 4-methylenedioxy amphetamine;~~]

"1-methyl-4-phenyl-1, 2, 5, 6-tetrahydro-pyridine (MPTP);

"1-methyl-4-phenyl-4-propionoxy-piperidine (MPPP, PPMP);

"[~~(5)~~] 4-methyl-2, 5-dimethoxyamphetamine (Some trade and other names: 4-methyl-2, 5-dimethoxy-alpha-methylphenethylamine; 'DOM'; and 'STP');

"3, 4-methylene-dioxy methamphetamine (MDMA, MDM);

"[~~(6)~~] 3, 4-methylenedioxy amphetamine;

"[~~(7)~~] 3, 4, 5-trimethoxy amphetamine;

"[~~(8)~~] 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);

"[~~(9)~~] Diethyltryptamine (Some trade and other names: N, N-Diethyltryptamine, DET);

"[~~(10)~~] Dimethyltryptamine (Some trade and other names: DMT);

"Ethylamine Analog of Phencyclidine (Some trade or other names: N-ethyl-1-phenylcyclohexylamine; (1-phenylcyclohexyl) ethylamine; N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE);

"[~~(11)~~] 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);

"[~~(12)~~] Lysergic acid diethylamide;

"[~~(13)~~] Marihuana;

"[~~(14)~~] Mescaline;

"[~~(15) Peyote, unless unharvested and growing in its natural state, meaning all parts of the plant presently classified botanically as Lophophora, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or extracts;~~

"[~~(16)~~] N-ethyl-3-piperidyl benzilate;

"[~~(17)~~] 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);

"Peyote, unless unharvested and growing in its natural state, meaning all parts of the plant presently classified botanically as Lophophora, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or extracts;

"[~~(18)~~] Psilocybin;

"[~~(19)~~] Psilocin;

"Pyrrolidine Analog of Phencyclidine (Some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP)

"[~~(20) Tetrahydrocannabinols~~].

"Synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

"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.

"(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions are covered.);

"Tetrahydrocannabinols;

"[~~(21)~~] Thiophene Analog of Phencyclidine (Some trade or other names: 1-[1-(2-thienyl) cyclohexyl] piperidine; 2-Thienyl Analog of Phencyclidine; TPCP). [;]

"(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant or stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation;

"[~~(1)~~] Fenethylline;
"[~~(2)~~] Mecloqualone;
"*Methaqualone;*
"*N-ethylamphetamine;* and
"[~~(3)~~] Nitrazepam.

"Section 2.04. SCHEDULE II. (a) Schedule II shall consist of the controlled substances listed in this section.

"(b) Any of the following substances, except those narcotic drugs listed in other schedules, however produced:

"(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding naloxone and its salts, and excluding naltrexone and its salts, but including the following:
"[~~(A) Raw opium;~~
"[~~(B) Opium extracts;~~
"[~~(C) Opium fluid extracts;~~
"[~~(D) Powdered opium;~~
"[~~(E) Granulated opium;~~
"[~~(F) Tincture of opium;~~
"[~~(G)~~] Codeine;
"[~~(H)~~] Ethylmorphine;
"[~~(I)~~] Etorphine hydrochloride;
"*Granulated opium;*
"[~~(J)~~] Hydrocodone;
"[~~(K)~~] Hydromorphone;
"[~~(L)~~] Metopon;
"[~~(M)~~] Morphine;
"*Opium extracts;*
"*Opium fluid extracts;*
"[~~(N)~~] Oxycodone;
"[~~(O)~~] Oxymorphone;
"*Powdered opium;*
"*Raw opium;*
"[~~(P)~~] Thebaine;
"*Tincture of opium;*

"(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (1) of this subsection, but not including the isoquinoline alkaloids of opium;

"(3) Opium poppy and poppy straw;

"(4) Cocaine, including its salts, isomers (whether optical, position, or geometric) and salts of such isomers; coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine; *and*

"(5) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrine alkaloids of the opium poppy) [~~;~~
"[~~(6) 1/Phenylcyclohexylamine; and~~
"[~~(7) 1/Piperidinocyclohexane/Carbonitrile~~].

"(c) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:
"[~~(1)~~] Alphaprodine;
"[~~(2)~~] Anileridine;
"[~~(3)~~] Bezitramide;
"*Dextropropoxyphene, Bulk (nondosage form);*
"[~~(4)~~] Dihydrocodeine;
"[~~(5)~~] Diphenoxylate;
"[~~(6)~~] Fentanyl;
"[~~(7)~~] Isomethadone;
"[~~(8)~~] Levomethorphan;
"[~~(9)~~] Levorphanol;

"[~~(10)~~] Metazocine;
"[~~(11)~~] Methadone;
"[~~(12)~~] Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
"[~~(13)~~] Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;
"[~~(14)~~] Pethidine;
"[~~(15)~~] Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
"[~~(16)~~] Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
"[~~(17)~~] Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
"[~~(18)~~] Phenazocine;
"[~~(19)~~] Piminodine;
"[~~(20)~~] Racemethorphan;
"[~~(21)~~] Racemorphan;
"*Sufentanil.*

"(d) [~~Phenylacetone and methylamine if possessed together with intent to manufacture methamphetamine.~~

"[~~(e)~~] Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

"[~~(1)~~] amphetamine, its salts, optical isomers, and salts of its optical isomers;
"[~~(2)~~] methamphetamine, including its salts, *optical* isomers, and salts of *optical* isomers;
"[~~(3)~~] methylphenidate and its salts; and
"[~~(4)~~] phenmetrazine and its salts.

"*(e)* [~~(f)~~] Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

"[~~(1) Methaqualone;~~
"[~~(2)~~] Amobarbital;
"[~~(3)~~] Secobarbital;
"[~~(4)~~] Pentobarbital.

"*(f) Unless specifically excepted or listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:*

"*(1) Immediate precursor to methamphetamine:*

"*Phenylacetone and methylamine if possessed together with intent to manufacture methamphetamine;*

"*(2) Immediate precursor to amphetamine and methamphetamine:*

"*Phenylacetone (Some trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone); and*

"*(3) Immediate precursors to phencyclidine (PCP):*

"*1-phenylcyclohexylamine;*

"*1-piperidinocyclohexanecarbonitrile (PCC).*

"Section 2.05. SCHEDULE III. (a) Schedule III shall consist of the controlled substances listed in this section.

"(b) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

"*Any* [~~(1) any~~] compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt thereof and one or more active medicinal ingredients which are not listed in any schedule;

"*Any* [~~(2) any~~] suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository;

"*Any* [~~(3) any~~] substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules;

"[~~(4)~~] Chlorhexadol;
"[~~(5)~~] Glutethimide;
"[~~(6)~~] Lysergic acid;
"[~~(7)~~] Lysergic acid amide;

"[~~(8)~~] Methyprylon;
"[~~(9)~~] Sulfondiethylmethane;
"[~~(10)~~] Sulfonethylmethane;
"[~~(11)~~] Sulfonmethane.
"(c) Nalorphine.
"(d) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:
"*Not* [~~(1) 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* [~~(2) 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* [~~(3) not~~] more than 300 milligrams of dihydrocodeinone, 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* [~~(4) not~~] more than 300 milligrams of dihydrocodeinone, 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* [~~(5) 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* [~~(6) 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 ingredients in recognized therapeutic amounts;
"*Not* [~~(7) 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* [~~(8) 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.
"(e) Any compound, mixture, or preparation containing any stimulant listed in Subsection *(d)* [~~(c)~~] of Section 2.04 or depressant substance listed in Subsection (b) of this section is excepted from the application of all or any part of this Act if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.
"(f) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible, within the specific chemical designation:
"[~~(1)~~] Benzphetamine;
"[~~(2)~~] Chlorphentermine;
"[~~(3)~~] Clortermine;
"[~~(4) Mazindol;~~]
"[~~(5)~~] Phendimetrazine.
"Section 2.06. SCHEDULE IV. (a) Schedule IV shall consist of the controlled substances listed in this section.
"(b) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:
"*Alprazolam;*
"[~~(1)~~] Barbital;
"[~~(2)~~] Chloral betaine;
"[~~(3)~~] Chloral hydrate;
"[~~(4)~~] Chlordiazepoxide;
"[~~(5)~~] Clonazepam;
"[~~(6)~~] Clorazepate;
"[~~(7)~~] Diazepam;

"[~~(8)~~] Ethchlorvynol;
"[~~(9)~~] Ethinamate;
"[~~(10)~~] Flurazepam;
"*Halazepam;*
"[~~(11)~~] Lorazepam;
"[~~(12)~~] Mebutamate;
"[~~(13)~~] Meprobamate;
"[~~(14)~~] Methohexital;
"[~~(15)~~] Methylphenobarbital;
"[~~(16)~~] Oxazepam;
"[~~(17)~~] Paraldehyde;
"[~~(18)~~] Pentazocine, its salts, derivatives, or compounds or mixtures thereof;
"[~~(19)~~] Petrichloral;
"[~~(20)~~] Phenobarbital;
"[~~(21)~~] Prazepam;
"*Temazepam;*
"*Triazolam*.

"(c) Any compound, mixture, or preparation containing any depressant substance listed in Subsection (b) of this section is excepted from the application of all or any part of this Act 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 therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

"(d) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific designation:

"[~~(1)~~] Diethylpropion;
"[~~(2) Phentermine;~~
"[~~(3)~~] Fenfluramine;
"*Mazindol;*
"[~~(4)~~] Pemoline (including organometallic complexes and chelates thereof);
"*Phentermine;*
"*Pipradol;*
"*SPA* [*(-)-1-dimethyamino-1, 2-diphenylethane*].

"(e) OTHER SUBSTANCES. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts:

"[~~(1)~~] Dextropropoxyphene (Alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane).

"(f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

"[~~(1)~~] Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

"Section 2.07. SCHEDULE V. (a) Schedule V shall consist of the controlled substances listed in this section.

"(b) Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

"*Not* [~~(1) not~~] more than 200 milligrams of codeine, or any of its salts, per 100 milliliters or per 100 grams;

"*Not* [~~(2) not~~] more than 100 milligrams of dihydrocodeine, or any of its salts, per 100 milliliters or per 100 grams;

"*Not* [~~(3) not~~] more than 100 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or per 100 grams;

"*Not* [~~(4) not~~] more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

"*Not* [~~(5) not~~] more than 15 milligrams of opium per 29.5729 milliliters or per 28.35 grams; [~~,~~]

"*Not* [~~(6) not~~] more than 0.5 milligram of difenoxin and not less than 25 milligrams of atropine sulfate per dosage unit.

"[~~(c) Loperamide.~~]"

SECTION 3. Subsection (a), Section 3.04, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

"(a) A registration under Section 3.03 to manufacture, distribute, analyze, or dispense a controlled substance may be suspended, denied, or revoked in accordance with this Act upon a finding that the registrant:

"(1) has furnished false or fraudulent material information in any application filed under this Act;

"(2) has been convicted of a felony offense under any state or federal law relating to any controlled substance or convicted of any other felony;

"(3) has had his registration under the Federal Controlled Substances Act suspended or revoked to manufacture, distribute, analyze, or dispense controlled substances;

"(4) has had his practitioner's license under the laws of this state suspended or revoked;

"(5) has failed to establish and maintain effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels as provided by federal regulations or laws now in effect or hereafter promulgated; [~~or~~]

"(6) has willfully failed to maintain records required to be kept or has willfully or unreasonably refused to allow an inspection authorized by this Act*; or*

"*(7) has violated a provision of this Act or a rule adopted under this Act.*"

SECTION 4. Subsection (a), Section 3.05, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

"(a) A registration under this Act may be revoked or suspended for cause set forth in Section 3.04 by any district court of this state. The attorney representing the state in the various district courts *or the attorney general* shall [~~have the authority, and it shall be his duty, to~~] file and prosecute appropriate judicial proceedings for the suspension or revocation of a registrant under this Act upon presentation of competent evidence by the director. A proceeding under this section may be maintained in the county of residence of the registrant, in the county where the registrant maintains a place of business or practice, [~~or~~] in the county in which a wrongful act under Section 3.04 was committed*, or in Travis County*."

SECTION 5. Sections 3.06 and 3.08, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), are amended to read as follows:

"Section 3.06. RECORDS OF REGISTRANTS. *(a)* Persons registered to manufacture, distribute, analyze, or dispense controlled substances under this Act shall keep records and maintain inventories in conformance with recordkeeping and inventory requirements of federal law and with any additional rules the director issues. *Records and inventories must be retained for a period of not less than two years from the date they are made.*

"*(b) The pharmacist-in-charge of a pharmacy is responsible for maintaining records and inventories required by this section.*

"Section 3.08. PRESCRIPTIONS. (a) No controlled substance in Schedule II may be dispensed or administered without the written prescription of a practitioner on a form that meets the requirements of and is filled in by the practitioner in accordance with Section 3.09 of this Act, except that:

"(1) in emergency situations, as defined by rule of the director, Schedule II *controlled substances* [~~drugs~~] may be dispensed or administered upon *the* oral or telephonically communicated prescription of a practitioner, reduced promptly to writing by the pharmacy or (in the case of an emergency authorization to administer) the person administering the Schedule II *controlled substance* [~~drug~~], *who* [~~which~~] shall include in the written record of the oral or telephonically communicated prescription the name, address, and Federal Drug Enforcement Administration number of the prescribing practitioner, all information required to be provided by the practitioner under Subsection (c) of Section 3.09 of this Act, and all information required to be provided by the dispensing pharmacist under Subsection (e) of Section 3.09 of this Act and shall send a copy of the written record to the Department of Public Safety within 30 days from the date the prescription is filled; and

"(2) a *medication order* [~~prescription~~] written for a patient who is admitted to a hospital at the time the *medication order* [~~prescription~~] is written and filled is not required to be on a form that meets the requirements of Section 3.09 of this Act, and the provisions of Section 3.09 of this Act *do not apply to those medication orders* [~~are not applicable to such prescriptions~~]. [~~No prescription for a Schedule II substance may be refilled.~~]

"(b) Except when dispensed directly to an ultimate user by a practitioner, other than a pharmacy, a controlled substance included in Schedule III or IV, which is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act, shall not be dispensed without a written, oral, or telephonically communicated prescription of a practitioner. A prescription for a Schedule III or IV drug shall not be filled or refilled more than six months after the *initial* date *of the prescription* [~~thereof~~] or be refilled more than five times, unless renewed by the practitioner.

"(c) A telephonically communicated prescription of a practitioner under this subchapter may be communicated only by the practitioner or by an agent of the practitioner designated in writing as authorized to communicate prescriptions by telephone. Such telephonically communicated prescriptions shall be reduced promptly to writing by the pharmacy and filed and retained in conformity with this subchapter. The written designation of an agent authorized to communicate prescriptions shall be maintained in the usual place of business of the practitioner and shall be 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, or the Department of Public Safety. *If a practitioner designates a different person as a designated agent, the practitioner shall designate the new agent in writing and maintain the written designation in the same manner in which the practitioner initially designated an agent under this subsection.*

"(d) *Not later than 72 hours after authorizing an emergency oral or telephonically communicated prescription, the prescribing practitioner shall cause a written prescription, completed in accordance with Section 3.09 of this Act, to be delivered to the dispensing pharmacist. The written prescription may be delivered to the pharmacist in person or by mail. If the prescription is delivered by mail, the envelope must be postmarked during the 72-hour period after the prescription was authorized. On receipt of the prescription, the dispensing pharmacist shall file the transcription of the telephonically communicated prescription, written under Subsection (c) of this section, and the pharmacy copy. The pharmacist shall send to the Department of Public Safety the department's copy not later than the 30th day after the date the prescription was filled.*

"*(e)* Upon request from a pharmacist, the practitioner shall furnish a copy of such written designation of an agent authorized to communicate prescriptions on behalf of such practitioner. Nothing herein shall be construed as to relieve such a practitioner or his designated agent from the requirements of Section 40 of the Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), and such practitioner shall be personally responsible for the actions for such designated agent in communicating prescriptions to a pharmacist.

"*(f)* [~~(e)~~] A controlled substance listed in Subdivision (1) or (2), Subsection (b), Section 2.07, of this Act, may not be dispensed without the prescription of a practitioner, except when dispensed directly to an ultimate user by a practitioner other than a pharmacy, and a prescription for the substances may not be filled or refilled more than six months after the *initial* date of the prescription or be refilled more than five times, unless renewed by the practitioner. A controlled substance included in Schedule V shall not be distributed or dispensed other than for a medical purpose.

"*(g) A* [~~(f) No~~] prescription for *a* Schedule II *controlled substance may not* [~~narcotic drugs shall~~] be filled after the end of the second day following the day on which the prescription was issued. *A prescription for a Schedule II controlled substance may not be refilled.*

"*(h)* [~~(g)~~] A practitioner, as defined by Section *1.02(35)(A)* [~~1.02(21)(A)~~] of this Act, may not prescribe, dispense, deliver, or administer a controlled substance or cause a controlled substance to be administered under his direction and supervision except for a valid medical purpose and in the course of professional practice.

"*(i)* [~~(h)~~] No person may administer or dispense a controlled substance in Schedule I, except as otherwise authorized by this Act.

"*(j) A person may not obtain triplicate prescription forms unless the person is a practitioner or an institutional practitioner.*

"*(k) 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; or*

"*(2) fill a prescription that is not prepared or issued as prescribed by this Act.*

"*(l) 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.*"

SECTION 6. Subsection (a), Section 3.09, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

"(a) Except as otherwise provided in Subsection (a) of Section 3.08 of this Act, each prescription for a controlled substance in Schedule II must be recorded on a prescription form that meets the requirements of Subsection (b) of this section and that is issued to practitioners [~~at cost~~] by the Department of Public Safety *for a fee that reflects the actual cost of printing and processing the forms, mailing containers, and binders and of mailing the forms at 100 forms per package*. No more than one such prescription shall be recorded on each form. Before delivering forms to a practitioner, the department shall print on the forms the name, address, *valid Department of Public Safety registration number,* and *valid Federal Drug Enforcement Administration* [~~federal drug enforcement administration~~] number of the practitioner."

SECTION 7. Subsection (b), Section 4.012, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

"(b) An offense under this section is punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than:

"(1) 10 years, and a fine not to exceed $100,000, if the person is convicted of an offense for which the punishment is otherwise imposed under Section 4.03(d)(1), 4.031(d)(1), 4.032(d)(1), 4.04(d)(1), 4.041(d)(1), 4.042(d)(1), 4.043(d)(1), 4.05(d)(1), *or* 4.051(d)(1) [~~, or 4.052(b)~~];

"(2) 15 years, and a fine not to exceed $250,000, if the person is convicted of an offense for which the punishment is otherwise imposed under Section 4.03(d)(2), 4.031(d)(2), 4.032(d)(2), 4.04(d)(2), 4.041(d)(2), 4.042(d)(2), 4.043(d)(2), 4.05(d)(2), or 4.051(d)(2); [~~and~~]

"(3) 20 years, and a fine not to exceed $500,000, if the person is convicted of an offense for which the punishment is otherwise imposed under Section 4.03(d)(3), 4.05(d)(3), or 4.051(d)(3); *and*

"*(4) 10 years, and a fine of not less than $100,000, nor more than $1 million, if the person is convicted of an offense for which the punishment is otherwise imposed under Section 4.052(b).*"

SECTION 8. Subsections (b), (c), (d), and (e), Section 4.02, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), are amended to read as follows:

"(b) Penalty Group 1. Penalty Group 1 shall include the following controlled substances:

"(1) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

"*Alfentanil;*

"[~~(A)~~] Allylprodine;

"[~~(B)~~] Benzethidine;

"[~~(C)~~] Betaprodine;

"[~~(D)~~] Clonitazene;

"[~~(E)~~] Diampromide;

"[~~(F)~~] Diethylthiambutene;

"[~~(G)~~] Difenoxin;

"[~~(H)~~] Dimenoxadol;

"[~~(I)~~] Dimethylthiambutene;

"[~~(J)~~] Dioxaphetyl butyrate;

"[~~(K)~~] Dipipanone;

"[~~(L)~~] Ethylmethylthiambutene;

"[~~(M)~~] Etonitazene;

"[~~(N)~~] Etoxeridine;

"[~~(O)~~] Furethidine;

"[~~(P)~~] Hydroxypethidine;

"[~~(Q)~~] Ketobemidone;

"[~~(R)~~] Levophenacylmorphan;

"[~~(S)~~] Meprodine;

"[~~(T)~~] Methadol;

"[~~(U)~~] Moramide;

"[~~(V)~~] Morpheridine;

"[~~(W)~~] Noracymethadol;

"[~~(X)~~] Norlevorphanol;

"[~~(Y)~~] Normethadone;

"[~~(Z)~~] Norpipanone;

"[~~(AA)~~] Phenadoxone;

"[~~(BB)~~] Phenampromide;
"[~~(CC)~~] Phenomorphan;
"[~~(DD)~~] Phenoperidine;
"[~~(EE)~~] Piritramide;
"[~~(FF)~~] Proheptazine;
"[~~(GG)~~] Properidine;
"[~~(HH)~~] Propiram;
"[~~(II)~~] *Sufentanil;*
"*Tilidine;*
"Trimeperidine.

"(2) Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:
"[~~(A)~~] Acetorphine;
"[~~(B)~~] Acetyldihydrocodeine;
"[~~(C)~~] Benzylmorphine;
"[~~(D)~~] Codeine methylbromide;
"[~~(E)~~] Codeine-N-Oxide;
"[~~(F)~~] Cyprenorphine;
"[~~(G)~~] Desomorphine;
"[~~(H)~~] Dihydromorphine;
"[~~(I)~~] Drotebanol;
"[~~(J)~~] Etorphine *except hydrochloride salt*;
"[~~(K)~~] Heroin;
"[~~(L)~~] Hydromorphinol;
"[~~(M)~~] Methyldesorphine;
"[~~(N)~~] Methyldihydromorphine;
"[~~(O)~~] Monoacetylmorphine;
"[~~(P)~~] Morphine methylbromide;
"[~~(Q)~~] Morphine methylsulfonate;
"[~~(R)~~] Morphine-N-Oxide;
"[~~(S)~~] Myrophine;
"[~~(T)~~] Nicocodeine;
"[~~(U)~~] Nicomorphine;
"[~~(V)~~] Normorphine;
"[~~(W)~~] Pholcodine;
"[~~(X)~~] Thebacon.

"(3) Any of the following substances, except those narcotic drugs listed in another group, however produced:

"(A) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding naloxone and its salts, and excluding naltrexone and its salts, but including the following:
"[~~(i) Raw opium;~~
"[~~(ii) Opium extracts;~~
"[~~(iii) Opium fluid extracts;~~
"[~~(iv) Powdered opium;~~
"[~~(v) Granulated opium;~~
"[~~(vi) Tincture of opium;~~
"[~~(vii)~~] Codeine;
"[~~(viii)~~] Ethylmorphine;
"*Granulated opium;*
"[~~(ix)~~] Hydrocodone;
"[~~(x)~~] Hydromorphone;
"[~~(xi)~~] Metopon;
"[~~(xii)~~] Morphine;
"*Opium extracts;*
"*Opium fluid extracts;*
"[~~(xiii)~~] Oxycodone;
"[~~(xiv)~~] Oxymorphone;

"*Powdered opium;*

"*Raw opium;*

"[~~(xv)~~] Thebaine;

"*Tincture of opium;*

"(B) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (A), but not including the isoquinoline alkaloids of opium;

"(C) Opium poppy and poppy straw;

"(D) Cocaine, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers; [~~,~~] coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine;

"(E) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrine alkaloids of the opium poppy).

"(4) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

"[~~(A)~~] Alphaprodine;

"[~~(B)~~] Anileridine;

"[~~(C)~~] Bezitramide;

"[~~(D)~~] Dihydrocodeine;

"[~~(E)~~] Diphenoxylate;

"[~~(F)~~] Fentanyl or alpha-methylfentanyl, or any other derivative of Fentanyl;

"[~~(G)~~] Isomethadone;

"[~~(H)~~] Levomethorphan;

"[~~(I)~~] Levorphanol;

"[~~(J)~~] Metazocine;

"[~~(K)~~] Methadone;

"[~~(L)~~] Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;

"[~~(M)~~] Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;

"[~~(N)~~] Pethidine;

"[~~(O)~~] Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;

"[~~(P)~~] Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4 carboxylate;

"[~~(Q)~~] Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;

"[~~(R)~~] Phenazocine;

"[~~(S)~~] Piminodine;

"[~~(T)~~] Racemethorphan;

"[~~(U)~~] Racemorphan.

"(5) Lysergic acid diethylamide, including its salts, isomers, and salts of isomers.

"(6) Methamphetamine, including its salts, *optical* isomers, and salts of *optical* isomers.

"(7) [~~1/Phenylcyclohexylamine;~~

"[~~(8)~~] Phenylacetone and methylamine, if possessed together with intent to manufacture methamphetamine;

"[~~(9) 1/Piperidinocyclohexane/Carbonitrile;~~]

"*(8)* [~~(10)~~] Phencyclidine *including its salts.*

"(c) Penalty Group 2. Penalty Group 2 shall include the following controlled substances: (1) Any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this paragraph only, the term 'isomer' includes the optical, position, and geometric isomers):

"[~~(A)~~] 4-bromo-2, 5-dimethoxyamphetamine (Some trade or other names: 4-bromo-2, 5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2, 5-DMA);

"[~~(B) 2, 5/dimethoxyamphetamine (Some trade or other names: 2, 5/dimethoxy/alpha/methylphenethylamine; 2, 5/DMA);~~

"[~~(C) 4/methoxyamphetamine (Some trade or other names: 4/methoxy/alpha/methyl/phenethylamine; paramethoxyamphetamine; PMA);~~

"[~~(D) 5/methoxy/3, 4/methylenedioxy amphetamine;~~

"[~~(E) 4/methyl/2, 5/dimethoxyamphetamine (Some trade and other names: 4/methyl/2, 5/dimethoxy/alpha/methylphenethylamine; 'DOM'; and 'STP');~~

"[~~(F) 3, 4/methylenedioxy amphetamine;~~

"[~~(G) 3, 4, 5/trimethoxy amphetamine;~~

"[~~(H)~~] 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);

"[~~(I)~~] 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);

"[~~(J)~~] Dimethyltryptamine (Some trade and other names: DMT);

"Ethylamine Analog of Phencyclidine (Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE);

"[~~(K)~~] 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.);

"[~~(L)~~] Mescaline;

"5-methoxy-3, 4-methylenedioxy amphetamine;

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

"1-methyl-4-phenyl-1;2,5,6-tetrahydro-pyridine (MPTP);

"1-methyl-4-phenyl-4-propionoxy-piperidine (MPPP, PPMP);

"4-methyl-2, 5-dimethoxyamphetamine (Some trade and other names: 4-methyl-2, 5-dimethoxy-alpha-methylphenethylamine; 'DOM'; 'STP');

"3,4-methylene-dioxy methamphetamine (MDMA, MDM);

"3,4-methylenedioxy amphetamine;

"[~~(M)~~] N-ethyl-3-piperidyl benzilate;

"[~~(N)~~] N-methyl-3-piperidyl benzilate;

"[~~(O)~~] *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-Piperidinocyclohexane-Carbonitrile (PCC);

"Psilocin;

"[~~(P)~~] Psilocybin;

"Pyrrolidine Analog of Phencyclidine (Some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP);

"[~~(Q)~~] Tetrahydrocannabinols, other than marihuana, and synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

"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. (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions are covered.)

"[~~(R)~~] Thiophene Analog of Phencyclidine (Some trade or other names: 1-[1-(2-thienyl) cyclohexyl] piperidine; 2-Thienyl Analog of Phencyclidine; TPCP, *TCP)* [~~,~~];

"3,4,5-trimethoxy amphetamine;

"(2) Phenylacetone (Some trade or other names: Phenyl-2-propanone; P-2-P, Benzymethyl ketone, methyl benzyl ketone);

"(3) Unless specifically excepted or unless listed in another Penalty Group, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant or stimulant effect on the central nervous system:

"Amphetamine, its salts, optical isomers, and salts of optical isomers;

"Etorphine Hydrochloride;

"Fenethylline and its salts;

"Mecloqualone and its salts;

"Methaqualone and its salts;

"N-Ethylamphetamine, its salts, optical isomers, and salts of optical isomers.

"[~~(S) Etorphine Hydrochloride.~~]

"(d) Penalty Group 3. Penalty Group 3 shall include the following controlled substances:

"(1) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

"[~~(A) Amphetamine, its salts, optical isomers, and salts of its optical isomers;~~

"[~~(B) Fenethylline;~~

"[~~(C)~~] Methylphenidate and its salts;

"[~~(D)~~] Phenmetrazine and its salts. [~~;~~]

"(2) [~~Methaqualone;~~

"[~~(3) Meeloqualone.~~

"[~~(1)~~] Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

"[~~(A)~~] Any substances which contain any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid not otherwise covered by this subsection;

"[~~(B)~~] Any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt of any of these, and one or more active medicinal ingredients which are not listed in any schedule;

"[~~(C)~~] Any 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;

"[~~(D)~~] *Alprazolam;*

"Amobarbital;

"[~~(E) Secobarbital;~~

"[~~(F) Pentobarbital;~~

"[~~(G)~~] Chlordiazepoxide;

"*Chlorhexadol;*

"[~~(H)~~] Clonazepam;

"[~~(I)~~] Clorazepate;

"[~~(J) Chlorhexadol;~~]

"[~~(K)~~] Diazepam;

"[~~(L)~~] Flurazepam;

"[~~(M)~~] Glutethimide;

"*Halazepam;*

"[~~(N)~~] Lorazepam;

"[~~(O)~~] Lysergic acid, including its salts, isomers, and salts of isomers;

"[~~(P)~~] Lysergic acid amide, including its salts, isomers, and salts of isomers;

"[~~(Q)~~] Mebutamate;

"[~~(R)~~] Methyprylon;

"[~~(S)~~] Nitrazepam;

"[~~(T)~~] Oxazepam;

"[~~(U)~~] Pentazocine, its salts, derivatives, or compounds or mixtures thereof;

"*Pentobarbitol;*

"[~~(V)~~] Prazepam;

"*Secobarbitol;*

"[~~(W)~~] Sulfondiethylmethane;

"[~~(X)~~] Sulfonethylmethane;

"[~~(Y)~~] Sulfonmethane;

"*Temazepam;*

"*Triazolam.*

"*(3)* [~~(5)~~] Nalorphine.

"*(4)* [~~(6)~~] Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

"*Not* [~~(A) 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* [~~(B) 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* [~~(C) not~~] more than 300 milligrams of dihydrocodeinone, 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* [~~(D) not~~] more than 300 milligrams of dihydrocodeinone, 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* [~~(E) 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* [~~(F) 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* [~~(G) 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* [~~(H) 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; [~~.~~]

"*Not* [~~(I) not~~] more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

"*(5)* [~~(7)~~] Any compound, mixture, or preparation containing any stimulant listed in Subsection (d)(1) of this section or depressant substance listed in Subsection (d)*(2)* [~~(4)~~] of this section is excepted if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

"*(6)* [~~(8)~~] Any material, compound, mixture or preparation which contains any quantity of the following substances:

"[~~(A)~~] Barbital;

"[~~(B)~~] Chloral betaine;

"[~~(C)~~] Chloral hydrate;

"[~~(D)~~] Ethchlorvynol;

"[~~(E)~~] Ethinamate;

"[~~(F)~~] Methohexital;

"[~~(G)~~] Meprobamate;

"[~~(H)~~] Methylphenobarbital;

"[~~(I)~~] Paraldehyde;

"[~~(J)~~] Petrichloral;

"[~~(K)~~] Phenobarbital.

"*(7)* [~~(9)~~] Any compound, mixture or preparation containing any depressant substance listed in Subsection (d)*(6)* [~~(8)~~] is excepted 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 therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

"*(8)* [~~(10)~~] Peyote, unless unharvested and growing in its natural state, (meaning all parts of the plant presently classified botanically as Lophophora, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or extracts);

"*(9)* [~~(11)~~] Unless listed in another penalty group, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of its isomers, if the existence of the salts, isomers, and salts of isomers is possible, within the specific chemical designation:

"[~~(A)~~] Benzphetamine;

"[~~(B)~~] Chlorphentermine;

"[~~(C)~~] Clortermine;

"[~~(D)~~] Diethylpropion;

"[~~(E)~~] Fenfluramine;

"[~~(F)~~] Mazindol;

"[~~(G)~~] Pemoline (including organometallic complexes and chelates thereof);

"[~~(H)~~] Phendimetrazine;

"[~~(I)~~] Phentermine;

"*Pipradrol;*

"*SPA [(-)-1-dimethylamino-1,2-diphenylethane*].

"*(10)* [~~(12)~~] OTHER SUBSTANCES. Unless specifically excepted or unless listed in another penalty group, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts:

"[~~(A)~~] Dextropropoxyphene (Alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane).

"(e) Penalty Group 4. Penalty Group 4 shall include the following controlled substances:

"[~~(1)~~] Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

"*Not* [~~(A) not~~] more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

"*Not* [~~(B) not~~] more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

"*Not* [~~(C) not~~] more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

"*Not* [~~(D) not~~] more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

"*Not* [~~(E) not~~] more than .15 milligrams of opium per 29.5729 milliliters or per 28.35 grams;

"*Not* [~~(F) not~~] more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

"[~~(2) Loperamide.~~]"

SECTION 9. Subchapter 4, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended by adding Section 4.044 to read as follows:

"*Section 4.044. MANUFACTURE, DELIVERY, AND POSSESSION OF SUBSTANCE NOT IN PENALTY GROUP. (a) A person commits an offense if the person knowingly or intentionally manufactures or delivers or possesses with intent to manufacture or deliver a controlled substance that is listed in a schedule, by virtue of an action of the commissioner in accordance with this Act, but is 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 that is listed in a schedule, by virtue of an action of the commissioner in accordance with this Act, but is not listed in a penalty group. An offense under this subsection is a Class B misdemeanor.*"

SECTION 10. Sections 4.08 and 4.09, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), are amended to read as follows:

"Section 4.08. COMMERCIAL OFFENSES. (a) It is unlawful for any *registrant or dispenser to knowingly or intentionally* [~~person~~]:

"(1) [~~who is a practitioner knowingly or intentionally to~~] distribute, *deliver, administer,* or dispense a controlled substance in violation of Section 3.08 *or 3.09 of this Act*;

"(2) [~~who is a registrant knowingly or intentionally to~~] manufacture a controlled substance not authorized by his registration or to distribute or dispense a controlled substance not authorized by his registration to another registrant or other person;

"(3) [~~to~~] refuse or fail to make, keep, or furnish any record, *report,* notification, order form, statement, invoice, or information required under this Act *or required by rules adopted by the director*;

"*(4) print, manufacture, possess, or produce triplicate prescription forms without the approval of the Department of Public Safety;*

"*(5) deliver or possess a counterfeit triplicate prescription;*

"*(6)* [~~(4) to~~] refuse an entry into any premises for any inspection authorized by this Act; or

"*(7)* [~~(5) to~~] refuse or fail to return triplicate prescription forms as required by Subsection (f) of Section 3.09 of this Act.

"(b) An offense under this section is a felony of the second degree *unless the person has been previously convicted of an offense under this subsection, in which case it is a felony of the first degree.*

"*(c) If a person negligently commits an act that would otherwise be an offense under this section, the person is liable to the state for a civil penalty of not less than $5,000 nor more than $10,000 for each act. The district attorney of Travis County or the attorney general may file suit in district court in Travis County to collect the penalty.*

"Section 4.09. FRAUD OFFENSES. (a) It is unlawful for any person knowingly or intentionally:

"(1) to distribute as a registrant *or a dispenser* a controlled substance classified in Schedule I or II, except pursuant to an order form as required by Section 3.07 of this Act;

"(2) to use in the course of the manufacture, *prescribing*, or distribution of a controlled substance a registration number which is fictitious, revoked, suspended, or issued to another person *or to use a triplicate prescription form issued to another person to prescribe a controlled substance*;

"(3) to acquire, obtain, or attempt to acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge *or through use of a fraudulent prescription form or fraudulent oral or telephonically communicated prescription*;

"(4) to furnish false or fraudulent material information in, or omit any material information from, any application, report, or other document required to be kept or filed under this Act, or any record required to be kept by this Act; [~~or~~]

"(5) to make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any controlled substance or container or labeling thereof so as to render the controlled substance a counterfeit substance;

"(6) to manufacture, deliver, or possess with intent to deliver a counterfeit substance;

"(7) to deliver a prescription or a prescription form for other than a valid medical purpose and in the course of professional practice; or

"(8) to possess a prescription for a controlled substance or any prescription form unless the prescription or prescription form is possessed:

"(A) during the bona fide 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) pursuant to 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 empowered to enforce this Act within the scope of his official duties.

"(b) An offense under Subsection (a) with respect to:

"(1) a controlled substance classified in Schedule I or II is a felony of the second degree;

"(2) a controlled substance classified in Schedule III is a felony of the third degree;

"(3) a controlled substance classified in Schedule IV or V is a Class B misdemeanor;

"(4) a counterfeit substance is a Class A misdemeanor;

"(5) delivery of a prescription for a controlled substance classified in Schedule II is a felony of the second degree;

"(6) delivery of a prescription for a controlled substance in Schedule III, IV, or V is a felony of the third degree;

"(7) possession of a prescription for a controlled substance in Schedule II or III is a felony of the third degree;

"(8) possession of a prescription for a controlled substance in Schedule IV or V is a Class B misdemeanor;

"(9) delivery of a prescription form is a felony of the second degree; and

"(10) possession of a prescription form is a felony of the third degree.

"(c) It is not a defense to prosecution under Subdivision (6) of Subsection (a) of this section that a person manufacturing, delivering, or possessing with an intent to deliver a counterfeit substance believed the substance was a controlled substance."

SECTION 11. Subsection (a), Section 5.03, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

"(a) The following are subject to forfeiture as authorized by this subchapter:

"(1) all controlled substances that are or have been manufactured, distributed, dispensed, delivered, acquired, obtained, or possessed in violation of this Act;

"(2) all raw material, products, and equipment of any kind that are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this Act;

"(3) all property that is used, or intended for use, as a container for property described in paragraph (1) or (2) of this subsection;

"(4) all books, records, and research products and materials, including formulas, microfilm, tapes, and data that are used, or intended for use, in violation of this Act;

"(5) any conveyance, including aircraft, vehicles, vessels, trailers, and railroad cars, that is used or intended for use to transport or in any manner facilitate the transportation, sale, receipt, possession, concealment, or delivery of any property described in paragraph (1), (2), or (3) of this subsection, provided that no conveyance used by any other person shall be forfeited under this subchapter unless the owner or other person in charge of the conveyance is a consenting party or privy to an [~~aggravated~~] offense under this Act *that is punishable as a felony* or an offense under Section 4.052 of this Act;

"(6) all money, certificates of deposit, negotiable instruments, securities, stocks, bonds, businesses or business investments, contractual rights, real estate, personal property, or other things of value *used or intended for use in violation of Section 4.052 of this Act or* derived from the sale, manufacture, distribution, dispensation, delivery, or other commercial undertaking violative of this Act;

"(7) all drug paraphernalia; and

"(8) triplicate prescription forms required by this Act to be returned to the Department of Public Safety."

SECTION 12. Subsections (a) and (b), Section 5.02, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), are amended to read as follows:

"(a) The director shall cooperate with federal and state agencies in discharging his responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances. To this end, he may:

"(1) arrange for the exchange of information among governmental officials concerning the use and abuse of controlled substances;

"(2) cooperate and coordinate in training programs concerning controlled substances law enforcement at local and state levels;

"(3) cooperate with the *Federal Drug Enforcement Administration* [~~bureau~~] 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 within this state, and make the information available for federal, state, and local law enforcement purposes, except that he may not furnish the name or identity of a patient or research subject whose identity could not be obtained under Subsection (c) of this section; and

"(4) conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substances may be extracted.

"(b) Results, information, and evidence received from the *Federal Drug Enforcement Administration* [~~bureau~~] and state agencies relating to the regulatory functions of this Act, including results of inspections conducted by it may be relied and acted upon by the director in the exercise of his regulatory functions under this Act."

SECTION 13. Subsection (a), Section 5.07, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

"(a) An owner of property, other than a controlled substance or raw material, that has been seized shall file a verified answer within 20 days of the mailing or publication of notice of seizure. If no answer is filed, the court shall hear evidence that the property is subject to forfeiture and may upon motion forfeit the property to the state or an agency of the state or to a political subdivision of the state authorized by law to employ peace officers. If an answer is filed, a time for hearing on forfeiture shall be set within 30 days of filing the answer and notice of the hearing shall be sent to all parties. *At a forfeiture hearing under this section, the state may be represented by the county or district attorney in the county in which the hearing is held or, at the request of the county or district attorney, by the attorney general.*"

SECTION 14. Subsections (b) and (f), Section 5.08, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), are amended to read as follows:

"(b) All other property that has been forfeited, except the money derived from the sale, manufacture, distribution, dispensation, delivery, or other commercial undertaking violative of this Act, and except as provided below, shall be sold at a public auction under the direction of the county sheriff after notice of public auction as provided by law for other sheriff's sales. The proceeds of the sale shall be delivered to the district clerk and shall be disposed of as follows:

"(1) to any bona fide lienholder, secured party, or other party holding an interest in the property in the nature of a security interest, to the extent of his interest; and

"(2) the balance, if any, after deduction of all storage and court costs, shall be forwarded to the state comptroller and deposited with and used as general funds of the state *except as provided by Subsection (f) of this section.*"

"(f) All money, securities, *certificates of deposit,* negotiable instruments, stocks, [~~or~~] bonds, *businesses or business investments, contractual rights, real estate, personal property and other*

things of value, and the proceeds from the sale of an item described in this subsection that are forfeited to *the seizing agencies* [~~an agency~~] of the state or an agency or office of a political subdivision of the state authorized by law to employ peace officers shall be deposited in a special fund to be administered by the *seizing agencies* [~~agency~~] or office to which they are forfeited. Except as otherwise provided by this subsection, expenditures from this fund shall be used solely for the investigation of any alleged violations of the criminal laws of this state. The director of an agency of the state may use not more than 10 percent of the amount credited to the fund for the prevention of drug abuse and for treatment of persons with drug-related problems. The director of an agency or office of a political subdivision that has received funds under this section shall comply with the request of the governing body of the political subdivision to deposit not more than 10 percent of the amount credited to the fund into the treasury of the subdivision. The governing body of the subdivision shall use the funds received for the prevention of drug abuse and for treatment of persons with drug-related problems. Nothing in this subsection shall be construed to decrease the total salaries, expenses, and allowances which an agency or office is receiving from other sources at or from the time this subsection takes effect."

SECTION 15. Sections 5.081 and 5.14, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), are amended to read as follows:

"Section 5.081. [~~FORFEITURE AND~~] DESTRUCTION OF EXCESS QUANTITIES. (a) *If a controlled substance or raw material is forfeited under Subsection (e) of Section 5.07 of this Act, the agency to which the substance or material is forfeited may destroy the substance or material provided the agency ensures that:* [~~If notice is given in accordance with Subsection (b) of this section, a peace officer may file a petition before a magistrate who has jurisdiction over the subject matter asking that any controlled substance or mixture containing a controlled substance that has been seized be forfeited to the state and destroyed.~~

"[~~(b) At least five days before a peace officer files a petition under Subsection (a) of this section, the sheriff of the county in which the seizure was made shall serve notice in accordance with the Texas Rules of Civil Procedure of the peace officer's intention to file the petition to each person arrested and charged with an offense under this Act related to the property which is the subject of the petition, and to each person who claims an interest in the seized property at the time notice is given. A copy of the petition must accompany each notice.~~

"[~~(c) Each petition filed under this section must identify the controlled substance or mixture containing the controlled substance, establish its location, and include an affidavit stating that:~~]

"(1) at least five random and representative samples have been taken from the total amount of controlled substance or mixture containing the controlled substance, and a sufficient quantity has been preserved to provide for discovery by parties entitled to discovery;

"(2) photographs have been taken which reasonably demonstrate the total amount of the controlled substance or *raw material* [~~mixture containing the controlled substance~~]; *and*

"(3) the gross weight *or liquid measure* of the controlled substance or *raw material* [~~mixture containing the controlled substance~~] has been determined, either by actually weighing *or measuring* the substance or by estimating its weight *or measurement* after making dimensional measurements of the total amount seized; [~~and~~

"[~~(4) after considering the difficulty and security risk of transporting and storing the substance and the nature of available storage facilities, the peace officer that has custody of the controlled substance or mixture containing the controlled substance has determined that it is not reasonably practical to preserve the substance in place, or to remove it to another location~~].

"[~~(d) The magistrate shall provide an interested person an opportunity to object to the proposed destruction.~~

"[~~(e) If the objection of an interested person is not sustained and the magistrate finds that the requirements of Subsections (b) and (c) of this section have been met, the magistrate shall issue an order forfeiting the controlled substance or mixture containing the controlled substance to the state and ordering the peace officer that has custody of the controlled substance or mixture containing the controlled substance to destroy it.~~

"[~~(f) On destruction of the controlled substance or mixture containing the controlled substance, the peace officer accomplishing the destruction shall sign a sworn statement before the magistrate attesting to the fact that the property was destroyed, the place of destruction, and the type and quantity of controlled substance or mixture containing the controlled substance destroyed.~~]

"*(b)* [~~(c)~~] Representative samples, photographs, and records made pursuant to this section are 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 *or raw material* was offered in evidence, regardless of whether or not the remainder of the substance has been destroyed. No inference or presumption of spoliation applies to substances destroyed pursuant to this section."

"Section 5.14. REPORT OF ARRESTS. (a) All law enforcement agencies in this state shall file *monthly* [~~semiannually~~] with the director a report of all arrests for drug offenses made *and quantities of controlled substances seized* by them during the preceding *month* [~~six months~~]. Such reports shall be made on forms provided by the director, and shall contain such information as required therein.

"(b) The director shall publish an annual summary of all drug arrests *and controlled substances seized* in this state."

SECTION 16. (a) Section 9, Chapter 570, Acts of the 67th Legislature, Regular Session, 1981, and Section 29, Chapter 425, Acts of the 68th Legislature, Regular Session, 1983, are repealed.

(b) Section 3, Chapter 753, Acts of the 68th Legislature, Regular Session, 1983, is repealed.

SECTION 17. (a) The change in law made by this Act applies only to offenses committed on or after the effective date of this Act and civil consequences resulting from a failure to perform a duty required by this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 18. This Act takes effect September 1, 1985.

SECTION 19. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on April 10, 1985, by a viva-voce vote; Senate concurred in House amendment on May 25, 1985, by a viva-voce vote; passed the House, with amendment, on May 22, 1985, by the following vote: Yeas 139, Nays 1, six present not voting.

Approved: June 3, 1985

Effective: September 1, 1985