

CHAPTER 1109

S.B. No. 1035

AN ACT

relating to the prescription, possession, and delivery of anabolic steroids and human growth hormones; providing a penalty.

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

SECTION 1. Section 2, Chapter 425, Acts of the 56th Legislature, Regular Session, 1959, as amended (Article 4476-14, Vernon's Texas Civil Statutes), is amended by amending Subsection (a) and adding Subsection (l) to read as follows:

(a) The term "dangerous drug" means any drug or device that is not included in Penalty Groups I through IV of the Texas Controlled Substances Act (*Article 4476-15, Vernon's Texas Civil Statutes*) and that is unsafe for self-medication, and includes any [the following:

~~[(1) Procaine, its salts, derivatives, or compounds or mixtures thereof except ointments and creams for topical application containing not more than two and one-half percent (2-1/2%) strength.~~

~~[(2) Any] drug, including an anabolic steroid and a human growth hormone, or any device which bears or is required to bear the legend: Caution: federal law prohibits dispensing without prescription, or the legend: Caution: federal law restricts this drug to use by or on the order of a licensed veterinarian.~~

(l) The term "anabolic steroid" includes any of the following or any isomer, ester, salt, or derivative of the following that acts in the same manner on the human body:

- (1) clostebol;
- (2) dehydrochlormethyltestosterone;

- (3) *ethylestrenol*;
- (4) *fluoxymesterone*;
- (5) *mesterolone*;
- (6) *methandienone*;
- (7) *methandrostenolone*;
- (8) *methenolone*;
- (9) *methyld testosterone*;
- (10) *nandrolone*;
- (11) *norethandrolone*;
- (12) *oxandrolone*;
- (13) *oxymesterone*;
- (14) *oxymetholone*;
- (15) *stanozolol*; and
- (16) *testosterone*.

SECTION 2. Section 4, Chapter 425, Acts of the 56th Legislature, Regular Session, 1959, as amended (Article 4476-14, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4. The provisions of paragraphs (a) and (d) of Section 3 and Section 5A shall not be applicable:

(a) As to the delivery of dangerous drugs to persons included in any of the classes hereinafter named, or to the agents or employees of such persons, for use in the usual course of their business or practice or in the performance of their official duties, as the case may be; or

(b) To the possession of dangerous drugs by such persons or their agents or employees for such use:

(1) Pharmacy, drug store, dispensary, apothecary shop, or prescription laboratory, duly registered with the State Board of Pharmacy;

(2) Practitioners;

(3) Persons who procure dangerous drugs for the purpose of lawful research, teaching, or testing, and not for resale;

(4) Hospitals which procure dangerous drugs for lawful administration by practitioners;

(5) Officers or employees of Federal, State, or local government;

(6) Manufacturers and Wholesalers registered with the Commissioner of Health as required by *the Texas Food, Drug and Cosmetic Act* [~~Chapter 373, Acts of the 57th Legislature, 1961, as amended~~] (Article 4476-5, Vernon's Texas Civil Statutes).

(7) Carriers and Warehousemen.

SECTION 3. Chapter 425, Acts of the 56th Legislature, Regular Session, 1959, as amended (Article 4476-14, Vernon's Texas Civil Statutes), is amended by adding Section 5A to read as follows:

*Sec. 5A. (a) This section applies to the prescription, possession, delivery, and administration of anabolic steroids or human growth hormones and is in addition to all other requirements of this Act concerning the manufacture, delivery, sale, prescription, possession, inventory, and recording of the inventory and sale of dangerous drugs.*

*(b) A practitioner may not prescribe, dispense, deliver, or administer an anabolic steroid or human growth hormone or cause an anabolic steroid or human growth hormone to be administered under his direction or supervision except for a valid medical purpose and in the course of a professional practice. Bodybuilding, muscle enhancement, or increasing muscle bulk or strength through the use of an anabolic*

*steroid or human growth hormone by a person who is in good health is not a valid medical purpose.*

*(c) A practitioner or pharmacist may not prescribe, dispense, or deliver an anabolic steroid or a human growth hormone without a written prescription that meets the requirements of Section 40(g), Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes).*

*(d) A practitioner may administer an anabolic steroid for a valid medical purpose in his office without the necessity of writing a prescription as required by Subsection (c) of this section. However, the practitioner must comply with Subsection (b) of this section.*

*(e) A person commits an offense if the person:*

*(1) prescribes, dispenses, delivers, or administers an anabolic steroid or a human growth hormone or delivers a prescription form for an anabolic steroid or a human growth hormone to a person for human use for any purpose other than a valid medical purpose and in the course of professional practice;*

*(2) prescribes, dispenses, or delivers an anabolic steroid or a human growth hormone for human use without complying with Subsection (c) of this section;*

*(3) without a valid prescription delivers an anabolic steroid or a human growth hormone to a person for human use; or*

*(4) is not a practitioner or pharmacist, and the person possesses over 250 tablets or eight 2cc bottles of an anabolic steroid or a human growth hormone or combination of anabolic steroids or human growth hormones.*

*(f) Except as provided by Subsection (g) of this section, an offense under this section is a felony of the third degree.*

*(g) If it is shown on the trial of a defendant for an offense under this section that the defendant was previously convicted of an offense under this section, the offense is punishable as a felony of the second degree.*

SECTION 4. Subsection (b), Section 15, Chapter 425, Acts of the 56th Legislature, Regular Session, 1959, as amended (Article 4476-14, Vernon's Texas Civil Statutes), is amended to read as follows:

*(b) Any person who sells or delivers or offers to sell or deliver in violation of this Act any dangerous drug defined in this Act, shall be guilty of a felony and upon conviction is punishable by confinement in the penitentiary for not less than two (2) nor more than ten (10) years and, in addition, he may be punished by a fine not to exceed Five Thousand Dollars (\$5,000). 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. This subsection does not apply to conduct that is specifically prohibited by Section 5A of this Act.*

SECTION 5. (a) The change in law made by this Act applies only to the punishment for an offense committed on or after the effective date of 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 that purpose.

SECTION 6. This Act takes effect September 1, 1987.

SECTION 7. 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 23, 1987, by a viva-voce vote; and that the Senate concurred in House amendments on May 27, 1987, by a viva-voce vote. Passed the House, with amendments, on May 22, 1987, by a non-record vote.

Approved June 19, 1987.

Effective Sept. 1, 1987.