

HEALTH AND SAFETY CODE

TITLE 6. FOOD, DRUGS, ALCOHOL, AND HAZARDOUS SUBSTANCES

SUBTITLE C. SUBSTANCE ABUSE REGULATION AND CRIMES

CHAPTER 483. DANGEROUS DRUGS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 483.0001. SHORT TITLE. This Act may be cited as the Texas Dangerous Drug Act.

Added by Acts 1993, 73rd Leg., ch. 789, Sec. 18, eff. Sept. 1, 1993.

Sec. 483.001. DEFINITIONS. In this chapter:

(1) "Board" means the Texas State Board of Pharmacy.

(2) "Dangerous drug" means a device or a drug that is unsafe for self-medication and that is not included in Schedules I through V or Penalty Groups 1 through 4 of Chapter 481 (Texas Controlled Substances Act). The term includes a device or a drug that bears or is required to bear the legend:

(A) "Caution: federal law prohibits dispensing without prescription" or "Rx only" or another legend that complies with federal law; or

(B) "Caution: federal law restricts this drug to use by or on the order of a licensed veterinarian."

(3) "Deliver" means to sell, dispense, give away, or supply in any other manner.

(4) "Designated agent" means:

(A) a licensed nurse, physician assistant, pharmacist, or other individual designated by a practitioner to communicate prescription drug orders to a pharmacist;

(B) a licensed nurse, physician assistant, or pharmacist employed in a health care facility to whom the practitioner communicates a prescription drug order; or

(C) a registered nurse or physician assistant authorized by a practitioner to carry out a prescription drug order for dangerous drugs under Subchapter B, Chapter 157, Occupations Code.

(5) "Dispense" means to prepare, package, compound, or

label a dangerous drug in the course of professional practice for delivery under the lawful order of a practitioner to an ultimate user or the user's agent.

(6) "Manufacturer" means a person, other than a pharmacist, who manufactures dangerous drugs. The term includes a person who prepares dangerous drugs in dosage form by mixing, compounding, encapsulating, entableting, or any other process.

(7) "Patient" means:

(A) an individual for whom a dangerous drug is prescribed or to whom a dangerous drug is administered; or

(B) an owner or the agent of an owner of an animal for which a dangerous drug is prescribed or to which a dangerous drug is administered.

(8) "Person" includes an individual, corporation, partnership, and association.

(9) "Pharmacist" means a person licensed by the Texas State Board of Pharmacy to practice pharmacy.

(10) "Pharmacy" means a facility where prescription drug or medication orders are received, processed, dispensed, or distributed under this chapter, Chapter 481 of this code, and Subtitle J, Title 3, Occupations Code. The term does not include a narcotic drug treatment program that is regulated by Chapter 466, Health and Safety Code.

(11) "Practice of pharmacy" means:

(A) provision of those acts or services necessary to provide pharmaceutical care;

(B) interpretation and evaluation of prescription drug orders or medication orders;

(C) participation in drug and device selection as authorized by law, drug administration, drug regimen review, or drug or drug-related research;

(D) provision of patient counseling;

(E) responsibility for:

(i) dispensing of prescription drug orders or distribution of medication orders in the patient's best interest;

(ii) compounding and labeling of drugs and

devices, except labeling by a manufacturer, repackager, or distributor of nonprescription drugs and commercially packaged prescription drugs and devices;

(iii) proper and safe storage of drugs and devices; or

(iv) maintenance of proper records for drugs and devices. In this subdivision, "device" has the meaning assigned by Subtitle J, Title 3, Occupations Code; or

(F) performance of a specific act of drug therapy management for a patient delegated to a pharmacist by a written protocol from a physician licensed by the state under Subtitle B, Title 3, Occupations Code.

(12) "Practitioner" means a person licensed:

(A) by the Texas State Board of Medical Examiners, State Board of Dental Examiners, Texas State Board of Podiatric Medical Examiners, Texas Optometry Board, or State Board of Veterinary Medical Examiners to prescribe and administer dangerous drugs;

(B) by another state in a health field in which, under the laws of this state, a licensee may legally prescribe dangerous drugs;

(C) in Canada or Mexico in a health field in which, under the laws of this state, a licensee may legally prescribe dangerous drugs; or

(D) an advanced practice nurse or physician assistant to whom a physician has delegated the authority to carry out or sign prescription drug orders under Section 157.0511, 157.052, 157.053, 157.054, 157.0541, or 157.0542, Occupations Code.

(13) "Prescription" means an order from a practitioner, or an agent of the practitioner designated in writing as authorized to communicate prescriptions, or an order made in accordance with Subchapter B, Chapter 157, Occupations Code, or Section 203.353, Occupations Code, to a pharmacist for a dangerous drug to be dispensed that states:

(A) the date of the order's issue;

(B) the name and address of the patient;

(C) if the drug is prescribed for an animal, the species of the animal;

(D) the name and quantity of the drug prescribed;

(E) the directions for the use of the drug;

(F) the intended use of the drug unless the practitioner determines the furnishing of this information is not in the best interest of the patient;

(G) the name, address, and telephone number of the practitioner at the practitioner's usual place of business, legibly printed or stamped; and

(H) the name, address, and telephone number of the licensed midwife, registered nurse, or physician assistant, legibly printed or stamped, if signed by a licensed midwife, registered nurse, or physician assistant.

(14) "Warehouseman" means a person who stores dangerous drugs for others and who has no control over the disposition of the drugs except for the purpose of storage.

(15) "Wholesaler" means a person engaged in the business of distributing dangerous drugs to a person listed in Sections 483.041(c)(1)-(6).

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 1100, Sec. 5.03(h), 5.04(b), eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 14, Sec. 200, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 237, Sec. 10, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 588, Sec. 26, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 351, Sec. 29, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 789, Sec. 18, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 965, Sec. 6, 82, eff. June 16, 1995; Acts 1997, 75th Leg., ch. 1095, Sec. 18, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1180, Sec. 22, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 112, Sec. 6, eff. May 11, 2001; Acts 2001, 77th Leg., ch. 1254, Sec. 11, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 14.795, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 88, Sec. 10, eff. May 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1240, Sec. 54, eff. September 1, 2005.

Sec. 483.002. RULES. The board may adopt rules for the proper administration and enforcement of this chapter.
Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 483.003. BOARD OF HEALTH HEARINGS REGARDING CERTAIN DANGEROUS DRUGS. (a) The Texas Board of Health may hold public hearings in accordance with Chapter 2001, Government Code to determine whether there is compelling evidence that a dangerous drug has been abused, either by being prescribed for nontherapeutic purposes or by the ultimate user.

(b) On making that finding, the Texas Board of Health may limit the availability of the abused drug by permitting its dispensing only on the prescription of a practitioner described by Section 483.001(12)(A), (B), or (D).

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1180, Sec. 23, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 112, Sec. 7, eff. May 11, 2001.

Sec. 483.004. COMMISSIONER OF HEALTH EMERGENCY AUTHORITY RELATING TO DANGEROUS DRUGS. If the commissioner of health has compelling evidence that an immediate danger to the public health exists as a result of the prescription of a dangerous drug by practitioners described by Section 483.001(12)(C), the commissioner may use the commissioner's existing emergency authority to limit the availability of the drug by permitting its prescription only by practitioners described by Section 483.001(12)(A), (B), or (D).

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 112, Sec. 8, eff. May 11, 2001.

SUBCHAPTER B. DUTIES OF PHARMACISTS, PRACTITIONERS, AND OTHER PERSONS

Sec. 483.021. DETERMINATION BY PHARMACIST ON REQUEST TO DISPENSE DRUG. (a) A pharmacist who is requested to dispense a dangerous drug under a prescription issued by a practitioner shall

determine, in the exercise of the pharmacist's professional judgment, that the prescription is a valid prescription. A pharmacist may not dispense a dangerous drug if the pharmacist knows or should have known that the prescription was issued without a valid patient-practitioner relationship.

(b) A pharmacist who is requested to dispense a dangerous drug under a prescription issued by a therapeutic optometrist shall determine, in the exercise of the pharmacist's professional judgment, whether the prescription is for a dangerous drug that a therapeutic optometrist is authorized to prescribe under Section 351.358, Occupations Code.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 588, Sec. 27, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 1254, Sec. 12, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 14.796, eff. Sept. 1, 2001.

Sec. 483.022. PRACTITIONER'S DESIGNATED AGENT; PRACTITIONER'S RESPONSIBILITIES. (a) A practitioner shall provide in writing the name of each designated agent as defined by Section 483.001(4)(A) and (C), and the name of each healthcare facility which employs persons defined by Section 483.001(4)(B).

(b) The practitioner shall maintain at the practitioner's usual place of business a list of the designated agents or healthcare facilities as defined by Section 483.001(4).

(c) The practitioner shall provide a pharmacist with a copy of the practitioner's written authorization for a designated agent as defined by Section 483.001(4) on the pharmacist's request.

(d) This section does not relieve a practitioner or the practitioner's designated agent from the requirements of Subchapter A, Chapter 562, Occupations Code.

(e) A practitioner remains personally responsible for the actions of a designated agent who communicates a prescription to a pharmacist.

(f) A practitioner may designate a person who is a licensed vocational nurse or has an education equivalent to or greater than that required for a licensed vocational nurse to communicate prescriptions of an advanced practice nurse or physician assistant

authorized by the practitioner to sign prescription drug orders under Subchapter B, Chapter 157, Occupations Code.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 201, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 237, Sec. 11, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 789, Sec. 19, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 428, Sec. 4, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 14.797, eff. Sept. 1, 2001.

Sec. 483.023. RETENTION OF PRESCRIPTIONS. A pharmacy shall retain a prescription for a dangerous drug dispensed by the pharmacy for two years after the date of the initial dispensing or the last refilling of the prescription, whichever date is later. Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 483.024. RECORDS OF ACQUISITION OR DISPOSAL. The following persons shall maintain a record of each acquisition and each disposal of a dangerous drug for two years after the date of the acquisition or disposal:

- (1) a pharmacy;
- (2) a practitioner;
- (3) a person who obtains a dangerous drug for lawful research, teaching, or testing purposes, but not for resale;
- (4) a hospital that obtains a dangerous drug for lawful administration by a practitioner; and
- (5) a manufacturer or wholesaler registered with the commissioner of health under Chapter 431 (Texas Food, Drug, and Cosmetic Act).

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

Sec. 483.025. INSPECTIONS; INVENTORIES. A person required to keep records relating to dangerous drugs shall:

- (1) make the records available for inspection and copying at all reasonable hours by any public official or employee engaged in enforcing this chapter; and
- (2) allow the official or employee to inventory all stocks of dangerous drugs on hand.

SUBCHAPTER C. CRIMINAL PENALTIES

Sec. 483.041. POSSESSION OF DANGEROUS DRUG. (a) A person commits an offense if the person possesses a dangerous drug unless the person obtains the drug from a pharmacist acting in the manner described by Section 483.042(a)(1) or a practitioner acting in the manner described by Section 483.042(a)(2).

(b) Except as permitted by this chapter, a person commits an offense if the person possesses a dangerous drug for the purpose of selling the drug.

(c) Subsection (a) does not apply to the possession of a dangerous drug in the usual course of business or practice or in the performance of official duties by the following persons or an agent or employee of the person:

- (1) a pharmacy licensed by the board;
- (2) a practitioner;
- (3) a person who obtains a dangerous drug for lawful research, teaching, or testing, but not for resale;
- (4) a hospital that obtains a dangerous drug for lawful administration by a practitioner;
- (5) an officer or employee of the federal, state, or local government;
- (6) a manufacturer or wholesaler licensed by the Department of State Health Services under Chapter 431 (Texas Food, Drug, and Cosmetic Act);
- (7) a carrier or warehouseman;
- (8) a home and community support services agency licensed under and acting in accordance with Chapter 142;
- (9) a licensed midwife who obtains oxygen for administration to a mother or newborn or who obtains a dangerous drug for the administration of prophylaxis to a newborn for the prevention of ophthalmia neonatorum in accordance with Section 203.353, Occupations Code; or
- (10) a salvage broker or salvage operator licensed under Chapter 432.

(d) An offense under this section is a Class A misdemeanor.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 1100, Sec. 5.03(f), eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 16, Sec. 2, eff. April 2, 1993; Acts 1993, 73rd Leg., ch. 789, Sec. 20, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 307, Sec. 2, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 318, Sec. 41, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1095, Sec. 19, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1129, Sec. 2, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 265, Sec. 9, eff. May 22, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 14.798, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1240, Sec. 55, eff. September 1, 2005.

Sec. 483.042. DELIVERY OR OFFER OF DELIVERY OF DANGEROUS DRUG. (a) A person commits an offense if the person delivers or offers to deliver a dangerous drug:

(1) unless:

(A) the dangerous drug is delivered or offered for delivery by a pharmacist under:

(i) a prescription issued by a practitioner described by Section 483.001(12)(A) or (B);

(ii) a prescription signed by a registered nurse or physician assistant in accordance with Subchapter B, Chapter 157, Occupations Code; or

(iii) an original written prescription issued by a practitioner described by Section 483.001(12)(C); and

(B) a label is attached to the immediate container in which the drug is delivered or offered to be delivered and the label contains the following information:

(i) the name and address of the pharmacy from which the drug is delivered or offered for delivery;

(ii) the date the prescription for the drug is dispensed;

(iii) the number of the prescription as filed in the prescription files of the pharmacy from which the prescription is dispensed;

(iv) the name of the practitioner who prescribed the drug and, if applicable, the name of the registered nurse or physician assistant who signed the prescription;

(v) the name of the patient and, if the drug is prescribed for an animal, a statement of the species of the animal; and

(vi) directions for the use of the drug as contained in the prescription; or

(2) unless:

(A) the dangerous drug is delivered or offered for delivery by:

(i) a practitioner in the course of practice; or

(ii) a registered nurse or physician assistant in the course of practice in accordance with Subchapter B, Chapter 157, Occupations Code; and

(B) a label is attached to the immediate container in which the drug is delivered or offered to be delivered and the label contains the following information:

(i) the name and address of the practitioner who prescribed the drug, and if applicable, the name and address of the registered nurse or physician assistant;

(ii) the date the drug is delivered;

(iii) the name of the patient and, if the drug is prescribed for an animal, a statement of the species of the animal; and

(iv) the name of the drug, the strength of the drug, and directions for the use of the drug.

(b) Subsection (a) does not apply to the delivery or offer for delivery of a dangerous drug to a person listed in Section 483.041(c) for use in the usual course of business or practice or in the performance of official duties by the person.

(c) Proof of an offer to sell a dangerous drug must be corroborated by a person other than the offeree or by evidence other than a statement by the offeree.

(d) An offense under this section is a state jail felony.

(e) The labeling provisions of Subsection (a) do not apply

to a dangerous drug prescribed or dispensed for administration to a patient who is institutionalized. The board shall adopt rules for the labeling of such a drug.

(f) Provided all federal requirements are met, the labeling provisions of Subsection (a) do not apply to a dangerous drug prescribed or dispensed for administration to food production animals in an agricultural operation under a written medical directive or treatment guideline from a veterinarian licensed under Chapter 801, Occupations Code.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 1100, Sec. 5.03(g), eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 287, Sec. 34, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 789, Sec. 21, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 900, Sec. 2.04, eff. Sept. 1, 1994; Acts 1995, 74th Leg., ch. 965, Sec. 7, eff. June 16, 1995; Acts 1997, 75th Leg., ch. 1180, Sec. 24, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1404, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 14.799, eff. Sept. 1, 2001.

Sec. 483.043. MANUFACTURE OF DANGEROUS DRUG. (a) A person commits an offense if the person manufactures a dangerous drug and the person is not authorized by law to manufacture the drug.

(b) An offense under this section is a state jail felony.
Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 2.05, eff. Sept. 1, 1994.

Sec. 483.045. FORGING OR ALTERING PRESCRIPTION. (a) A person commits an offense if the person:

(1) forges a prescription or increases the prescribed quantity of a dangerous drug in a prescription;

(2) issues a prescription bearing a forged or fictitious signature;

(3) obtains or attempts to obtain a dangerous drug by using a forged, fictitious, or altered prescription;

(4) obtains or attempts to obtain a dangerous drug by means of a fictitious or fraudulent telephone call; or

(5) possesses a dangerous drug obtained by a forged,

fictitious, or altered prescription or by means of a fictitious or fraudulent telephone call.

(b) An offense under this section is a Class B misdemeanor unless it is shown on the trial of the defendant that the defendant has previously been convicted of an offense under this chapter, in which event the offense is a Class A misdemeanor.

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

Sec. 483.046. FAILURE TO RETAIN PRESCRIPTION. (a) A pharmacist commits an offense if the pharmacist:

(1) delivers a dangerous drug under a prescription; and

(2) fails to retain the prescription as required by Section 483.023.

(b) An offense under this section is a Class B misdemeanor unless it is shown on the trial of the defendant that the defendant has previously been convicted of an offense under this chapter, in which event the offense is a Class A misdemeanor.

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

Sec. 483.047. REFILLING PRESCRIPTION WITHOUT AUTHORIZATION. (a) Except as authorized by Subsection (b), a pharmacist commits an offense if the pharmacist refills a prescription unless:

(1) the prescription contains an authorization by the practitioner for the refilling of the prescription, and the pharmacist refills the prescription in the manner provided by the authorization; or

(2) at the time of refilling the prescription, the pharmacist is authorized to do so by the practitioner who issued the prescription.

(b) A pharmacist may exercise his professional judgment in refilling a prescription for a dangerous drug without the authorization of the prescribing practitioner provided:

(1) failure to refill the prescription might result in an interruption of a therapeutic regimen or create patient suffering;

(2) either:

(A) a natural or manmade disaster has occurred which prohibits the pharmacist from being able to contact the practitioner; or

(B) the pharmacist is unable to contact the practitioner after reasonable effort;

(3) the quantity of drug dispensed does not exceed a 72-hour supply;

(4) the pharmacist informs the patient or the patient's agent at the time of dispensing that the refill is being provided without such authorization and that authorization of the practitioner is required for future refills; and

(5) the pharmacist informs the practitioner of the emergency refill at the earliest reasonable time.

(c) An offense under this section is a Class B misdemeanor unless it is shown on the trial of the defendant that the defendant has previously been convicted under this chapter, in which event the offense is a Class A misdemeanor.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 789, Sec. 22, eff. Sept. 1, 1993.

Sec. 483.048. UNAUTHORIZED COMMUNICATION OF PRESCRIPTION.

(a) An agent of a practitioner commits an offense if the agent communicates by telephone a prescription unless the agent is designated in writing under Section 483.022 as authorized by the practitioner to communicate prescriptions by telephone.

(b) An offense under this section is a Class B misdemeanor unless it is shown on the trial of the defendant that the defendant has previously been convicted of an offense under this chapter, in which event the offense is a Class A misdemeanor.

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

Sec. 483.049. FAILURE TO MAINTAIN RECORDS. (a) A person commits an offense if the person is required to maintain a record under Section 483.023 or 483.024 and the person fails to maintain the record in the manner required by those sections.

(b) An offense under this section is a Class B misdemeanor

unless it is shown on the trial of the defendant that the defendant has previously been convicted of an offense under this chapter, in which event the offense is a Class A misdemeanor.

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

Sec. 483.050. REFUSAL TO PERMIT INSPECTION. (a) A person commits an offense if the person is required to permit an inspection authorized by Section 483.025 and fails to permit the inspection in the manner required by that section.

(b) An offense under this section is a Class B misdemeanor unless it is shown on the trial of the defendant that the defendant has previously been convicted of an offense under this chapter, in which event the offense is a Class A misdemeanor.

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

Sec. 483.051. USING OR REVEALING TRADE SECRET. (a) A person commits an offense if the person uses for the person's advantage or reveals to another person, other than to an officer or employee of the board or to a court in a judicial proceeding relevant to this chapter, information relating to dangerous drugs required to be kept under this chapter, if that information concerns a method or process subject to protection as a trade secret.

(b) An offense under this section is a Class B misdemeanor unless it is shown on the trial of the defendant that the defendant has previously been convicted of an offense under this chapter, in which event the offense is a Class A misdemeanor.

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

Sec. 483.052. VIOLATION OF OTHER PROVISION. (a) A person commits an offense if the person violates a provision of this chapter other than a provision for which a specific offense is otherwise described by this chapter.

(b) An offense under this section is a Class B misdemeanor, unless it is shown on the trial of the defendant that the defendant has previously been convicted of an offense under this chapter, in which event the offense is a Class A misdemeanor.

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

Sec. 483.053. PREPARATORY OFFENSES. Title 4, Penal Code, applies to an offense under this subchapter.

Added by Acts 1995, 74th Leg., ch. 318, Sec. 40, eff. Sept. 1, 1995.

SUBCHAPTER D. CRIMINAL AND CIVIL PROCEDURE

Sec. 483.071. EXCEPTIONS; BURDEN OF PROOF. (a) In a complaint, information, indictment, or other action or proceeding brought for the enforcement of this chapter, the state is not required to negate an exception, excuse, proviso, or exemption contained in this chapter.

(b) The defendant has the burden of proving the exception, excuse, proviso, or exemption.

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

Sec. 483.072. UNCORROBORATED TESTIMONY. A conviction under this chapter may be obtained on the uncorroborated testimony of a party to the offense.

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

Sec. 483.073. SEARCH WARRANT. A peace officer may apply for a search warrant to search for dangerous drugs possessed in violation of this chapter. The peace officer must apply for and execute the search warrant in the manner prescribed by the Code of Criminal Procedure.

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

Sec. 483.074. SEIZURE AND DESTRUCTION. (a) A dangerous drug that is manufactured, sold, or possessed in violation of this chapter is contraband and may be seized by an employee of the board or by a peace officer authorized to enforce this chapter and charged with that duty.

(b) If a dangerous drug is seized under Subsection (a), the board may direct an employee of the board or an authorized peace officer to destroy the drug. The employee or authorized peace officer directed to destroy the drug must act in the presence of

another employee of the board or authorized peace officer and shall destroy the drug in any manner designated as appropriate by the board.

(c) Before the dangerous drug is destroyed, an inventory of the drug must be prepared. The inventory must be accompanied by a statement that the dangerous drug is being destroyed at the direction of the board, by an employee of the board or an authorized peace officer, and in the presence of another employee of the board or authorized peace officer. The statement must also contain the names of the persons in attendance at the time of destruction, state the capacity in which each of those persons acts, be signed by those persons, and be sworn to by those persons that the statement is correct. The statement shall be filed with the board.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 237, Sec. 12, eff. Sept. 1, 1991.

Sec. 483.075. INJUNCTION. The board may institute an action in its own name to enjoin a violation of this chapter.

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

Sec. 483.076. LEGAL REPRESENTATION OF BOARD. (a) If the board institutes a legal proceeding under this chapter, the board may be represented only by a county attorney, a district attorney, or the attorney general.

(b) The board may not employ private counsel in any legal proceeding instituted by or against the board under this chapter.

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