

SUBJECT: Revising drug Penalty Group 2-A for synthetic cannabinoids

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 7 ayes — Herrero, Moody, Canales, Hunter, Leach, Shaheen, Simpson

0 nays

WITNESSES: For — Justin Wood, Harris County District Attorney's Office; Azell Carter, Pasadena Police Department Regional Crime Laboratory; (*Registered, but did not testify*: Will Ramsay, 8th Judicial District Attorney's Office; William Squires, Bexar County District Attorney; Eddie Solis, City of Abilene, City of Arlington; Jennifer Tharp, Comal County Criminal District Attorney; Frederick Frazier, Dallas Police Association; Mark Clark, Houston Police Officers Union; Jessica Anderson, Houston Police Department; Tiana Sanford, Montgomery County District Attorney's Office; Larry Smith, William Travis, Maxey Cerliano, Micah Harmon, A.J. Louderback, Sheriffs' Association of Texas; Michael Pacheco, Texas Farm Bureau; Monty Wynn, Texas Municipal League; Donald Baker, Texas Police Chiefs Association; Lon Craft, Texas Municipal Police Association; James Grunden and Bobby Sanders, Upshur County Sheriff's Office; Robert E. Johnson, Jr., Webb County; Anna Bowers; Eric Brown; James Capra; R Glenn Smith)

Against — (*Registered, but did not testify*: Dirk Davidek; John Van Lowe)

On — Drew Fout, Department of Public Safety Crime Lab; Aaron Crowell, Texas Municipal Police Association; (*Registered, but did not testify*: Skylor Hearn, Texas Department of Public Safety)

BACKGROUND: Health and Safety Code, ch. 481 is the Texas Controlled Substances Act. It categorizes illegal substances into schedules and penalty groups and provides penalties for the manufacture, delivery, and possession of controlled substances. Penalty group 2-A consists of compounds that are synthetic cannabinoids.

“Controlled substances” are defined in sec. 481.002(5) as substances, including drugs, adulterants, and dilutants listed in schedules I through V or penalty groups 1, 1-A or 2 through 4. “Controlled substance analogues” are defined in sec. 481.002(6) as substances with chemical structures similar to the chemical structures of controlled substances in schedule I or II or in penalty groups 1, 1-A, or 2. The definition of “controlled substance analogue” also includes substances specifically designed to produce an effect similar to or greater than the effect of certain controlled substances.

DIGEST: CSHB 597 would include penalty group 2-A, which governs synthetic cannabinoid substances, within the definitions of “controlled substance” and “controlled substance analogue.” The bill would add penalty group 2-A to a list of penalty groups that can be prosecuted for substance analogs.

CSHB 597 would remove language in penalty group 2-A that describes the group as consisting of compounds that are cannabinoid receptor agonists that mimic the pharmacological effect of naturally occurring cannabinoids. The bill also would remove references to specific compounds listed in penalty group 2-A. It would add descriptions of compounds by listing core components and link components.

The bill would take effect September 1, 2015, and would apply only to offenses committed on or after that date.

SUPPORTERS SAY: CSHB 597 would better enable law enforcement officers to combat dangerous synthetic cannabinoids. In 2011, the Legislature created penalty group 2-A for synthetic marijuana to address a growing problem with drugs such as K2 and Spice. These powerful drugs are unsafe synthetic compounds with serious side effects.

To address the issues of these drugs, the legislation in 2011 placed specific compounds that described common synthetic cannabinoids into a new penalty group. However, these descriptions may not encompass other synthetic cannabinoids with the same molecular structure as marijuana that are tweaked to fall just outside of the definition of the illegal

substances.

CSHB 597 would address this problem by placing in the penalty group descriptions of compounds and lists of core components and link components related to synthetic marijuana and eliminating the names of specific compounds. This would allow law enforcement authorities to continue to go after these dangerous drugs even if they were just slightly changed from a core structure.

Current law also requires proof that a synthetic substance in the penalty group mimics the pharmacological effects of naturally occurring cannabinoids, something that can be difficult to determine in lab tests. CSHB 597 would remove this unnecessary requirement so that law enforcement authorities could go after these illegal substances.

CSHB 597 is focused on revising what is considered a synthetic cannabinoid and would not be the vehicle to alter drug penalties.

OPPONENTS SAY: Adjusting penalty group 2-A to reflect versions of synthetic marijuana would be a good opportunity to examine the structure of the penalties for marijuana, especially the penalties for possession of low-level amounts.