

SUBJECT: Revising drug penalty groups 1 and 3 to include new substances

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 6 ayes — Moody, Canales, Gervin-Hawkins, Hefner, Lang, Wilson
0 nays
1 absent — Hunter

WITNESSES: For — (*Registered, but did not testify:* Scott Peal, Chambers County Attorney's Office; Terrie Mogavero, East Texans Against K2; Jessica Goddard; Tina Pihota)

Against — (*Registered, but did not testify:* Nicholas Hudson, American Civil Liberties Union of Texas; Thomas Parkinson)

BACKGROUND: Health and Safety Code, ch. 481 is the Texas Controlled Substances Act. It categorizes illegal substances into penalty groups and provides penalties for the manufacture, delivery, and possession of controlled substances. Drugs are placed into penalty groups based on their dangerousness, with penalty group 1 having the most serious drugs.

DIGEST: CSHB 2671 would expand penalty group 1 of the Texas Controlled Substances Act to include Phenazepam, U-47700, and AH-7921. The bill would add to penalty group 3 three substances: Carisoprodol, Etizolam, and Tramadol.

The bill would take effect September 1, 2017, and would apply only to offenses committed on or after that date.

SUPPORTERS SAY: CSHB 2671 would update Texas drug laws to better protect the public. The bill would add to the penalty groups dangerous drugs that are made to thwart Texas laws by being similar, but not identical to, other illegal substances. Manufacturers can quickly and easily tweak molecular compounds to skirt the state's laws, and the bill would update the state's

penalty group 1 to reflect two new synthetic opioids and a designer medication, Phenazepam. The bill also would place in penalty group 3 another designer medication, Etizolam. The bill would place two medications into penalty group 3, Carisoprodol and Tramadol, which have been placed into schedules of controlled drugs but have been overlooked for placement in a penalty group.

CSHB 2671 would not contribute to the over-criminalization of drug offenses. The bill is focused on revising the list of drugs to include new dangers and would not be the vehicle to alter drug penalties.

OPPONENTS
SAY:

Adjusting penalty groups might be a good opportunity to examine the structure of the state's drug penalties to combat the over-criminalization of drug offenses. Over-criminalization can make it harder to address the underlying problems driving drug abuse.

NOTES:

A companion bill, SB 2176 by Hughes, was approved by the Senate Committee on Criminal Justice on April 18 and recommended for the Senate's local and uncontested calendar.