

BILL ANALYSIS

Senate Research Center
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S.B. 227
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Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas state law classifies dangerous synthetic drugs under the Texas Controlled Substances Act. Specifically, S.B. 172, 84th Legislature, Regular Session, 2015, provided a comprehensive approach to classifying synthetic hallucinogens, also known as "25-I" or "N-Bomb."

The enrolled version of S.B. 172, signed by the Governor, included a provision codified as Section 481.103(d), Health and Safety Code. This provision prohibited a conviction for manufacture, delivery, or possession for a substance in Penalty Group 2 of the Texas Controlled Substances Act, as long as that substance was approved by the federal Food and Drug Administration. While this provision was well-intentioned to provide an extra layer of statutory security to consumers who use a legally prescribed substance, the practical effect was not so clear. There had been reports that, because of this language, some Texas prosecutors were unable to convict individuals who possessed or delivered federally approved drugs that were not prescribed to those individuals.

The language in Section 481.103(d), Health and Safety Code, is unique in statute, and does not need to remain in statute in order to protect patients who have been legally prescribed a substance that appears in Penalty Group 2 of the Texas Controlled Substances Act. See Tex. Health & Safety Code § 481.116(a). Therefore, S.B. 227 repeals the offending language, aligning Penalty Group 2 with other provisions of the Texas Controlled Substances Act.

As proposed, S.B. 227 amends current law relating to certain substances listed in Penalty Group 2 of the Texas Controlled Substances Act.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Repealer: Section 481.103(d) (relating to a prohibition on convictions for the manufacture or delivery of certain substances included in this section's penalty group that have been approved by the Federal Drug Administration), Health and Safety Code.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2017.