

## **BILL ANALYSIS**

Senate Research Center  
81R3941 JSC-D

S.B. 449  
By: Carona  
Criminal Justice  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Texas commissioner of health (commissioner), who oversees the Texas Department of State Health Services, places individual prescription and non-prescription drugs on one of five administrative lists or "schedules" based on their propensity to create user dependence. Propensity for a drug to create dependence increases with decreasing schedule numbers. For example, Schedule 1 drugs may not be legally administered or dispensed, and include heroine, LSD, and marijuana.

Drugs are categorized under statute into four distinct "penalty groups" based on their schedule designation. These statutory penalty groups are located in the Controlled Substances Act, (Chapter 481, Subchapter D, Health and Safety Code). Sections 481.103 through 481.130 of the Controlled Substances Act create criminal offenses based on the penalty group designation of a given drug.

As proposed, S.B. 449 amends the statutory penalty groups to include a number of drugs that have been listed in schedules by the commissioner but which have not been codified into a penalty group.

### **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. Amends Section 481.102, Health and Safety Code, as follows:

Sec. 481.102. PENALTY GROUP 1. Provides that Penalty Group 1 consists of the following substances, however produced, except those narcotic drugs listed in another group: opium and opiate not listed in Penalty Group 3 or 4, and a salt, compound, derivative, or preparation of opium or opiate, other than thebaine derived butorphanol, nalmeferne and its salts, naloxone and its salts, and naltrexone and its salts, but including Oripavine.

SECTION 2. Amends Section 481.103(a), Health and Safety Code, to provide that Penalty Group 2 consists of any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, if the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation: alpha-methyltryptamine, 5-methoxy-N, N-diisopropyltryptamine, and Lisdexamfetamine, including its salts, isomers, and salts of isomers.

SECTION 3. Amends Section 481.104(a), Health and Safety Code, as follows:

(a) Provides that Penalty Group 3 consists of a material, compound, mixture, or preparation that contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system, including Zopiclone; an anabolic steroid, including any drug or hormonal substance, or any substance that is chemically or pharmacologically related to testosterone, other than an estrogen, progestin, dehydroepiandrosterone, or corticosteroid, and promotes muscle growth, including the following drugs and substances and any salt, ester, or ether of the

following drugs and substances: Androstenediol; Androstenedione; Androstenediol; Androstenedione; Bolasterone; Calusterone; Delta-1-dihydrotestosterone; Furazabol; 13beta-ethyl-17beta-hydroxygon-4-en-3-one; 4-hydroxytestosterone; 4-hydroxy-19-nortestosterone; Mestanolone; 17alpha-methyl-3beta, 17 beta-dihydroxy-5alpha-androstane; 17alpha-methyl-3alpha, 17 beta-dihydroxy-5alpha-androstane; 17alpha-methyl-3beta, 17beta-dihydroxyandrost-4-ene; 17alpha-methyl-4-hydroxynandrolone; Methyldienolone; Methyltrienolone; 17alpha-methyl-delta-1-dihydrotestosterone; Norandrostenediol; Norandrostenedione; Norbolethone; Norclostebol; Normethandrolone; Stenbolone; and Tetrahydrogestrinone. Deletes existing text from the list, including Chlorotestosterone (4-chlortestosterone), Methandranone, Methandrostenolone, and Stanolone. Makes nonsubstantive changes.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2009.