

## **BILL ANALYSIS**

Senate Research Center  
85R25403 JSC-D

C.S.H.B. 1178  
By: Kuempel et al. (Hinojosa)  
Criminal Justice  
5/11/2017  
Committee Report (Substituted)

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

Prescription drug abuse is a huge epidemic facing our country and our state, claiming tens of thousands of lives every year. The opioid abuse crisis has fueled an increase in pharmacy burglaries and thefts. In Texas there are no special penalty enhancements or offenses specifically dealing with pharmacy. This means that a burglary of a pharmacy would be treated the same as the burglary of a convenience store or a car without regard to the controlled substances or opioids that are stolen.

We must do more to protect communities from the wave of property crime that is feeding the illegal opioid pipeline. The punishment for burglarizing a pharmacy, clinic, or hospital is not appropriate to the harm that opioid abuse does to our society.

H.B. 1178 addresses this issue by establishing penalties for a certain burglary or theft offense involving a controlled substance. It amends the Penal Code to establish a penalty of third degree felony for burglary if the premises is a building in which a controlled substance is generally stored, including a pharmacy, clinic, hospital, or nursing facility, and the actor entered or remained concealed in that building with intent to commit a theft of a controlled substance.

H.B. 1178 expands the conduct that constitutes a third degree felony theft offense to include theft of property that is a controlled substance, regardless of the value of the controlled substance. (Original Author's / Sponsor's Statement of Intent)

C.S.H.B. 1178 amends current law relating to the punishment for burglary and theft involving controlled substances.

### **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 30.01, Penal Code, by adding Subdivisions (4) and (5) to define "controlled substance" and "wholesale distributor of prescription drugs."

SECTION 2. Amends Section 30.02, Penal Code, by amending Subsection (c) and adding Subsection (c-1), as follows:

(c) Includes an exception as provided in Subsection (c-1).

(c-1) Provides that an offense under this section (Burglary) is a felony of the third degree if the premises are a commercial building in which a controlled substance is generally stored, including a pharmacy, clinic, hospital, nursing facility, or warehouse, and the person entered or remained concealed in that building with intent to commit a theft of a controlled substance.

SECTION 3. Amends Section 30.04(d), Penal Code, as follows:

(d) Provides that an offense under this section (Burglary of Vehicles) is a Class A misdemeanor, except that, among certain other exceptions, the offense is a felony of the third degree if the vehicle broken into or entered is owned or operated by a wholesale distributor of prescription drugs and the actor breaks into or enters that vehicle with the intent to commit theft of a controlled substance. Makes nonsubstantive changes.

SECTION 4. Amends Section 31.03(e), Penal Code, as follows:

(e) Provides that, except as provided by Subsection (f) (relating to providing that a certain offense is increased to the next higher category of offense under certain circumstances), an offense under this section (Theft) is a felony of the third degree if the value of the property stolen is of a certain amount, or the property is, among certain other items, a controlled substance, having a value of less than \$150,000, if stolen from a commercial building in which a controlled substance is generally stored, including a pharmacy, clinic, hospital, nursing facility, or warehouse, or a vehicle owned or operated by a wholesale distributor of prescription drugs. Makes nonsubstantive changes.

SECTION 5. Amends Section 31.03(h), Penal Code, by adding Subdivisions (5) and (6), to define “controlled substance” and “wholesale distributor of prescription drugs.”

SECTION 6. Makes application of this Act prospective.

SECTION 7. Effective date: September 1, 2017.