

By: Dukes

H.B. No. 3985

Substitute the following for H.B. No. 3985:

By: Herrero

C.S.H.B. No. 3985

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution and punishment of the use of benzodiazepines or gamma butyrolactone to facilitate the commission of the offense of aggravated sexual assault and the addition of gamma butyrolactone to Penalty Group 1 of the Texas Controlled Substances Act for purposes of criminal prosecution; amending provisions subject to a criminal penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 22.021(a), Penal Code, is amended to read as follows:

(a) A person commits an offense:

(1) if the person:

(A) intentionally or knowingly:

(i) causes the penetration of the anus or sexual organ of another person by any means, without that person's consent;

(ii) causes the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or

(iii) causes the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; or

(B) intentionally or knowingly:

1 (i) causes the penetration of the anus or
2 sexual organ of a child by any means;

3 (ii) causes the penetration of the mouth of
4 a child by the sexual organ of the actor;

5 (iii) causes the sexual organ of a child to
6 contact or penetrate the mouth, anus, or sexual organ of another
7 person, including the actor;

8 (iv) causes the anus of a child to contact
9 the mouth, anus, or sexual organ of another person, including the
10 actor; or

11 (v) causes the mouth of a child to contact
12 the anus or sexual organ of another person, including the actor; and

13 (2) if:

14 (A) the person:

15 (i) causes serious bodily injury or
16 attempts to cause the death of the victim or another person in the
17 course of the same criminal episode;

18 (ii) by acts or words places the victim in
19 fear that any person will become the victim of an offense under
20 Section 20A.02(a)(3), (4), (7), or (8) or that death, serious
21 bodily injury, or kidnapping will be imminently inflicted on any
22 person;

23 (iii) by acts or words occurring in the
24 presence of the victim threatens to cause any person to become the
25 victim of an offense under Section 20A.02(a)(3), (4), (7), or (8) or
26 to cause the death, serious bodily injury, or kidnapping of any
27 person;

(iv) uses or exhibits a deadly weapon in the course of the same criminal episode;

(v) acts in concert with another who engages in conduct described by Subdivision (1) directed toward the same victim and occurring during the course of the same criminal episode; or

(vi) administers or provides a benzodiazepine, flunitrazepam, otherwise known as rohypnol, gamma butyrolactone, gamma hydroxybutyrate, or ketamine to the victim of the offense with the intent of facilitating the commission of the offense;

(B) the victim is younger than 14 years of age; or

(C) the victim is an elderly individual or a disabled individual.

SECTION 2. Section 22.021(b), Penal Code, is amended by adding Subdivision (3) to read as follows:

(3) "Benzodiazepine" means any drug included in the class of drugs of the same name, that:

(A) produce a depressant effect on the central nervous system; and

(B) are characterized by a benzene ring fused to a seven-member diazepine ring.

SECTION 3. Section 481.102, Health and Safety Code, is amended to read as follows:

Sec. 481.102. PENALTY GROUP 1. Penalty Group 1 consists of:

(1) the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers,

unless specifically excepted, if the existence of these isomers,
esters, ethers, and salts is possible within the specific chemical
designation:

Alfentanil;
Allylprodine;
Alphacetylmethadol;
Benzethidine;
Betaprodine;
Clonitazene;
Diampromide;
Diethylthiambutene;
Difenoxin not listed in Penalty Group 3 or 4;
Dimenoxadol;
Dimethylthiambutene;
Dioxaphetyl butyrate;
Dipipanone;
Ethylmethylthiambutene;
Etonitazene;
Etoxeridine;
Furethidine;
Hydroxypethidine;
Ketobemidone;
Levophenacylmorphane;
Meprodine;
Methadol;
Moramide;
Morpheridine;

1 Noracymethadol;
2 Norlevorphanol;
3 Normethadone;
4 Norpipanone;
5 Phenadoxone;
6 Phenampromide;
7 Phenomorphan;
8 Phenoperidine;
9 Piritramide;
10 Proheptazine;
11 Properidine;
12 Propiram;
13 Sufentanil;
14 Tilidine; and
15 Trimeperidine;

16 (2) the following opium derivatives, their salts,
17 isomers, and salts of isomers, unless specifically excepted, if the
18 existence of these salts, isomers, and salts of isomers is possible
19 within the specific chemical designation:

20 Acetorphine;
21 Acetyldihydrocodeine;
22 Benzylmorphine;
23 Codeine methylbromide;
24 Codeine-N-Oxide;
25 Cyprenorphine;
26 Desomorphine;
27 Dihydromorphine;

1 Drotebanol;
2 Etorphine, except hydrochloride salt;
3 Heroin;
4 Hydromorphenol;
5 Methyldesorphine;
6 Methyldihydromorphine;
7 Monoacetylmorphine;
8 Morphine methylbromide;
9 Morphine methylsulfonate;
10 Morphine-N-Oxide;
11 Myrophine;
12 Nicocodeine;
13 Nicomorphine;
14 Normorphine;
15 Pholcodine; and
16 Thebacon;

17 (3) the following substances, however produced,
18 except those narcotic drugs listed in another group:

19 (A) Opium and opiate not listed in Penalty Group
20 3 or 4, and a salt, compound, derivative, or preparation of opium or
21 opiate, other than thebaine derived butorphanol, nalmeferine and its
22 salts, naloxone and its salts, and naltrexone and its salts, but
23 including:

24 Codeine not listed in Penalty Group 3 or 4;
25 Dihydroetorphine;
26 Ethylmorphine not listed in Penalty Group 3
27 or 4;

1 Granulated opium;
2 Hydrocodone not listed in Penalty Group 3;
3 Hydromorphone;
4 Metopon;
5 Morphine not listed in Penalty Group 3;
6 Opium extracts;
7 Opium fluid extracts;
8 Oripavine;
9 Oxycodone;
10 Oxymorphone;
11 Powdered opium;
12 Raw opium;
13 Thebaine; and
14 Tincture of opium;
15 (B) a salt, compound, isomer, derivative, or
16 preparation of a substance that is chemically equivalent or
17 identical to a substance described by Paragraph (A), other than the
18 isoquinoline alkaloids of opium;
19 (C) Opium poppy and poppy straw;
20 (D) Cocaine, including:
21 (i) its salts, its optical, position, and
22 geometric isomers, and the salts of those isomers;
23 (ii) coca leaves and a salt, compound,
24 derivative, or preparation of coca leaves;
25 (iii) a salt, compound, derivative, or
26 preparation of a salt, compound, or derivative that is chemically
27 equivalent or identical to a substance described by Subparagraph

(i) or (ii), other than decocainized coca leaves or extractions of coca leaves that do not contain cocaine or ecgonine; and

(E) concentrate of poppy straw, meaning the crude extract of poppy straw in liquid, solid, or powder form that contains the phenanthrine alkaloids of the opium poppy;

(4) the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, if the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);

Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

Alphaprodine;

Anileridine;

Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);

Beta-hydroxy-3-methylfentanyl;

Bezitramide;

Carfentanil;

Dihydrocodeine not listed in Penalty Group 3 or 4;

Diphenoxylate not listed in Penalty Group 3 or 4;

Fentanyl or alpha-methylfentanyl, or any other derivative of Fentanyl;

Isomethadone;

Levomethorphan;

Levorphanol;

1 Metazocine;
2 Methadone;
3 Methadone-Intermediate, 4-cyano-2-dimethylamino-
4 4, 4-diphenyl butane;
5 3-methylfentanyl(N-[3-methyl-1-(2-phenylethyl)-
6 4-piperidyl]-N-phenylpropanamide);
7 3-methylthiofentanyl(N-[3-methyl-1-(2-thienyl)
8 ethyl-4-piperidiny]-N-phenylpropanamide);
9 Moramide-Intermediate, 2-methyl-3-morpholino-1,
10 1-diphenyl-propane-carboxylic acid;
11 Para-fluorofentanyl(N-(4-fluorophenyl)-N-1-(2-
12 phenylethyl)-4-piperidinypropanamide);
13 PEPAP (1-(2-phenethyl)-4-phenyl-4-
14 acetoxypiperidine);
15 Pethidine (Meperidine);
16 Pethidine-Intermediate-A, 4-cyano-1-methyl-4-
17 phenylpiperidine;
18 Pethidine-Intermediate-B, ethyl-4-
19 phenylpiperidine-4 carboxylate;
20 Pethidine-Intermediate-C, 1-methyl-4-
21 phenylpiperidine-4-carboxylic acid;
22 Phenazocine;
23 Piminodine;
24 Racemethorphan;
25 Racemorphan;
26 Remifentanil; and
27 Thiofentanyl(N-phenyl-N-[1-(2-thienyl)ethyl-4-

1 piperidinyll]-propanamide);

2 (5) Flunitrazepam (trade or other name: Rohypnol);

3 (6) Methamphetamine, including its salts, optical
4 isomers, and salts of optical isomers;

5 (7) Phenylacetone and methylamine, if possessed
6 together with intent to manufacture methamphetamine;

7 (8) Phencyclidine, including its salts;

8 (9) Gamma butyrolactone (trade or other name: GBL);

9 (10) Gamma hydroxybutyric acid (some trade or other
10 names: gamma hydroxybutyrate, GHB), including its salts; and

11 (11) [~~(10)~~] Ketamine.

12 SECTION 4. The change in law made by this Act applies only
13 to an offense committed on or after the effective date of this Act.
14 An offense committed before the effective date of this Act is
15 governed by the law in effect on the date the offense was committed,
16 and the former law is continued in effect for that purpose. For
17 purposes of this section, an offense was committed before the
18 effective date of this Act if any element of the offense occurred
19 before that date.

20 SECTION 5. This Act takes effect September 1, 2015.