

**TITLE 6: CRIMES AND CRIMINAL PROCEDURE**  
**DIVISION 2: CONTRABAND OFFENSES**

**§ 2111. Reports and Recommendations by Director to Legislature;  
Amendment of Schedule by Legislature.**

(a) The director shall report annually to the legislature the effects of the implementation of this chapter in relation to the problems of drug abuse in the Commonwealth, and shall recommend to the legislature any additions, deletions or revisions in the schedules of substances enumerated in 6 CMC §§ 2114, 2116, 2118, 2120, and 2122 and any other recommendations which the director deems necessary. The director shall not recommend any additions, deletions or revisions in the schedules until after notice and an opportunity for a hearing is afforded all interested parties, except that a hearing is not required if official notice has been received that the substance has been added, deleted or rescheduled as a controlled substance under federal law. In making a determination regarding a substance, the director shall assess the degree of danger or probable danger of the substance by considering the following:

(1) The actual or probable abuse of the substance, including:

- (A) Its history and current pattern of abuse;
- (B) The scope, duration and significance of abuse; and
- (C) A judgment of the degree of actual or probable detriment which may result from the abuse of the substance.

(2) The biomedical hazard of the substance, including:

- (A) Its pharmacology: the effects and modifiers of effects of the substances;
- (B) Its toxicology: the acute and chronic toxicity, interaction with other substances whether controlled or not and liability to psychic or physiological dependence;
- (C) Risk to public health and particular susceptibility of segments of the population; and
- (D) Existence of therapeutic alternatives for substances which are not or may be used for medical purposes.

(3) A judgment of the probable physical and social impact of widespread abuse of the substance.

(4) Whether the substance is an immediate precursor of a substance already controlled under this part.

(5) The current state of scientific knowledge regarding the substance.

(b) After considering the factors enumerated above, the director shall make a recommendation to the legislature, specifying to what schedule the substance shall be added, deleted or rescheduled if it finds that the substance has a degree of danger or probable danger. The director may make the recommendation to the legislature prior to the submission of its annual report in which case the director shall publish and give notice to the public of the recommendation.

(c) The legislature has the sole authority to add, delete, or reschedule all substances enumerated in the schedules in 6 CMC §§ 2114, 2116, 2118, 2120 and 2122.

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(d) If the legislature designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

(e) If a substance is added, deleted or rescheduled as a controlled substance under federal law and notice of the designation is given to the director, the director shall recommend that a corresponding change in Commonwealth law be made by the legislature, unless the director objects to the change. In that case, the director shall publish the reasons for objection and afford all interested parties an opportunity to be heard. Following the hearing, the director shall announce his or her decision and shall notify the legislature in writing of the change in federal law or regulations and of the director's recommendations.

**Source:** 63 TTC § 256.

**Commission Comment:** With respect to the references to the "director" of the Department of Public Health and Environmental Services, see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the Commission comment to 1 CMC § 2001.