

STORAGE NAME: h0091a.hcl

DATE: January 19, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
HEALTH CARE LICENSING & REGULATION
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: HB 91

RELATING TO: Controlled Substances

SPONSOR(S): Representative Stafford

COMPANION BILL(S): SB 152(I)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) HEALTH CARE LICENSING & REGULATION YEAS 10 NAYS 0
 - (2) CRIME & PUNISHMENT
 - (3) CRIMINAL JUSTICE APPROPRIATIONS
 - (4)
 - (5)
-

I. SUMMARY:

HB 91 amends ch. 893, Florida Statutes, by adding Gamma-hydroxy Butyric Acid (GHB) to Schedule II and Ketamine to Schedule III, thereby clarifying the penalties for unlawful possession and sale. GHB has strong sedative effects and has been a known drug of abuse. Ketamine is an anesthetic drug used primarily in veterinary medicine. It is known to be abused at teen "rave" parties.

This bill places in law the Attorney General's emergency rules that expire in June of 1999 which makes these two drugs unlawful. The emergency rules were adopted by the Attorney General because these two drugs presented an immediate danger to the public health, safety, and welfare.

Technical changes are made to correct cross references from the Department of Business and Professional Regulation to the Department of Health and to replace Dextropropoxyphene with Propoxyphene.

There is no fiscal impact on the state, local government, or the private sector in general.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Gamma-hydroxy Butyric Acid (GHB) is a drug with no current accepted medical use in the United States. It has strong sedative effects and has been a known drug of abuse since 1990. In 1997, the Florida Legislature placed Gamma-hydroxy-butyrate in ch. 893, Florida Statutes, as a schedule II drug. However, chemical nomenclature disputes over the difference in Gamma-hydroxy Butyric Acid and Gamma-hydroxy-butyrate resulted in several failed prosecutions.

The Attorney General filed an emergency rule scheduling Gamma-hydroxy Butyric Acid in schedule II on the recommendations of the Department of Health and Department of Law Enforcement declaring that it presented an immediate danger to the public health, safety, and welfare. The emergency rule expires in June 1999.

Ketamine is an anesthetic drug used primarily in veterinary medicine and occasionally in human medicine. It is a legitimately manufactured pharmaceutical with an increasing frequency of abuse. It is known on the street as "Special K", Vitamin K", "Ket", and "K". Effects are similar to "PCP", and "LSD", with shorter duration. It is abused at teen "rave parties" and a \$7.00 vial bought by a veterinarian sells for \$100-\$200 on the street (DEA-1997). The drug is not controlled under ch. 893, Florida Statutes.

The Attorney General, based on the recommendations of the Department of Health and Department of Law Enforcement, filed an emergency rule scheduling Ketamine in schedule III based on the fact that it presented an immediate danger to the public health, safety, and welfare. The emergency rule expires in June 1999.

B. EFFECT OF PROPOSED CHANGES:

The bill clarifies any confusion relating to GHB (in its various forms) and converts the emergency rules relating to both GHB and Ketamine into statutory law. This will ensure that stricter penalties for committing unlawful acts involving GHB and Ketamine continue.

Technical changes are made to correct cross references from the Department of Business and Professional Regulation to the Department of Health and to replace Dextropropoxyphene with Propoxyphene.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

- a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Sections 893.03 and 893.035, Florida Statutes.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends subsections (2), (3), and (4) of s. 893.03, Florida Statutes, to delete certain named drugs and insert a more inclusive name for these drugs and to include a drug not currently scheduled.

Subsection (2) is amended to delete Gamma-hydroxy-butyrate (GHB) and add Gamma-hydroxy Butyric Acid (GHB) which is a more inclusive name for this drug. Bulk Dextropropoxyprone is replaced with bulk Propoxyprone which is a technical change.

Subsection (3) is amended to include Ketamine and its various forms for the first time.

Subsection (4) is amended to replace Dextropropoxyphene with Propoxyphene which is a technical change.

Sections 2-15. Technical. Various sections are reenacted to incorporate amendments to section 893.03, Florida Statutes.

Section 16. Technical. Amends s. 893.035, Florida Statutes, to correct references to the Department of Health rather than the Department of Business and Professional Regulation.

Section 17. Provides an effective date of October 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. **DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

By adding Gamma-hydroxy Butyric Acid to Schedule II and Ketamine to Schedule III, it will clarify the penalties for unlawful possession and sale of these drugs and assist in prosecuting violators.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. **FISCAL COMMENTS:**

According to the Department of Health, this bill will have no fiscal impact on the department.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. **APPLICABILITY OF THE MANDATES PROVISION:**

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

B. **REDUCTION OF REVENUE RAISING AUTHORITY:**

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. **REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:**

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A technical amendment is needed to correct the spelling of Gamma-hydroxy Butyric Acid on page 4, line 28 of the bill. It is spelled Gamma-hydroxy "butyricacid".

STORAGE NAME: h0091a.hcl

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PAGE 8

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Two amendments were adopted by the Health Care Licensing and Regulation Committee at its meeting on 1/19/99. Amendment one was technical and corrected the spelling of "butyric acid". Amendment two changed the effective date from October 1, 1999, to July 1, 1999.

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE LICENSING & REGULATION:

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