

By Senator Wise

5-63A-03

1 A bill to be entitled
 2 An act relating to controlled substances;
 3 creating s. 893.031, F.S.; providing
 4 definitions; specifying that for purposes of
 5 certain industrial uses, 1,4-Butanediol and
 6 gamma-butyrolactone (GBL) are excepted from the
 7 schedule of controlled substances when in the
 8 possession of an authorized manufacturer or
 9 distributor or person possessing a finished
 10 product; providing circumstances under which
 11 the exceptions do not apply; reenacting s.
 12 893.03(1)(d), F.S., relating to certain
 13 substances controlled under Schedule I;
 14 amending s. 893.13, F.S.; clarifying the hours
 15 during which it is unlawful to sell,
 16 manufacture, deliver, or possess a controlled
 17 substance within a specified distance of a
 18 child care facility or public or private
 19 elementary, middle, or secondary school;
 20 amending s. 893.135, F.S., relating to
 21 trafficking offenses; correcting a case
 22 citation; providing an effective date.

23
 24 Be It Enacted by the Legislature of the State of Florida:

25
 26 Section 1. Section 893.031, Florida Statutes, is
 27 created to read:
 28 893.031 Industrial exceptions to controlled substance
 29 scheduling.--
 30 (1) For the purpose of this section, the following
 31 meanings of terms shall apply:

- 1 (a) "Manufacture" means any process or operation
2 necessary for manufacturing a product.
- 3 (b) "Distribution" means any process or operation
4 necessary for distributing a product, including, but not
5 limited to, wholesaling, delivery or transport, and storage.
- 6 (c) "Manufacturer of 1,4-Butanediol" means a person
7 who is involved in the manufacture of 1,4-Butanediol for use
8 in the manufacture of an industrial product, and who provides
9 the manufactured 1,4-Butanediol to a distributor of
10 1,4-Butanediol or a manufacturer of an industrial product.
- 11 (d) "Distributor of 1,4-Butanediol" means a person who
12 is involved in the distribution of 1,4-Butanediol.
- 13 (e) "Manufacturer of gamma-butyrolactone (GBL)" means
14 a person who:
- 15 1. Is involved in the manufacture of
16 gamma-butyrolactone (GBL) for use in the manufacture of an
17 industrial product, and who provides that manufactured
18 gamma-butyrolactone (GBL) to a distributor of
19 gamma-butyrolactone (GBL) or a manufacturer of a finished
20 product; and
- 21 2. Is in compliance with any requirements to register
22 with the United States Drug Enforcement Administration as a
23 List I Chemical registrant.
- 24 (f) "Distributor of gamma-butyrolactone (GBL)" means a
25 person who:
- 26 1. Is involved in the distribution of
27 gamma-butyrolactone (GBL); and
- 28 2. Is in compliance with any requirements to register
29 with the United States Drug Enforcement Administration as a
30 List I Chemical registrant.
- 31

1 (g) "Manufacturer of an industrial product" means a
2 person who is involved in the manufacture of an industrial
3 product in which that person acquires:

4 1. 1,4-Butanediol from a manufacturer of
5 1,4-Butanediol or a distributor of 1,4-Butanediol, and who
6 possesses that substance for use in the manufacture of an
7 industrial product; or

8 2. Gamma-butyrolactone (GBL) from a manufacturer of
9 gamma-butyrolactone (GBL) or a distributor of
10 gamma-butyrolactone (GBL), and who possesses that substance
11 for use in the manufacture of an industrial product.

12 (h) "Distributor of an industrial product" means a
13 person who is involved in the distribution of an industrial
14 product.

15 (i) "Industrial product" means a non-drug,
16 non-controlled finished product that is not for human
17 consumption.

18 (j) "Finished product" means a product:

19 1. That does not contain either 1,4-Butanediol or
20 gamma-butyrolactone (GBL); or

21 2. From which neither 1,4-Butanediol nor
22 gamma-butyrolactone (GBL) can be readily extracted or readily
23 synthesized, and which is not sold for human consumption.

24 (2) 1,4-Butanediol is excepted from scheduling
25 pursuant to s. 893.03(1)(d)1., when that substance is in the
26 possession of:

27 (a) A manufacturer of 1,4-Butanediol or a distributor
28 of 1,4-Butanediol;

29 (b) A manufacturer of an industrial product or a
30 distributor of an industrial product; or

31 (c) A person possessing a finished product.

1 (3) Gamma-butyrolactone (GBL) is excepted from
2 scheduling pursuant to s. 893.03(1)(d)2., when that substance
3 is in the possession of:

4 (a) A manufacturer of gamma-butyrolactone (GBL) or a
5 distributor of gamma-butyrolactone (GBL);

6 (b) A manufacturer of an industrial product or a
7 distributor of an industrial product; or

8 (c) A person possessing a finished product.

9 (4) This section does not apply to:

10 (a) A manufacturer of 1,4-Butanediol or a distributor
11 of 1,4-Butanediol who sells, delivers, or otherwise
12 distributes that substance to a person who is not a
13 distributor of 1,4-Butanediol or a manufacturer of an
14 industrial product;

15 (b) A manufacturer of gamma-butyrolactone (GBL) or a
16 distributor of gamma-butyrolactone (GBL) who sells, delivers,
17 or otherwise distributes that substance to a person who is not
18 a distributor of gamma-butyrolactone (GBL) or a manufacturer
19 of an industrial product;

20 (c) A person who possesses 1,4-Butanediol but who is
21 not a manufacturer of 1,4-Butanediol, a distributor of
22 1,4-Butanediol, a manufacturer of an industrial product, a
23 distributor of an industrial product, or a person possessing a
24 finished product as described in paragraph (2)(c) or paragraph
25 (3)(c);

26 (d) A person who possesses gamma-butyrolactone (GBL)
27 but who is not a manufacturer of gamma-butyrolactone (GBL), a
28 distributor of gamma-butyrolactone (GBL), a manufacturer of an
29 industrial product, a distributor of an industrial product, or
30 a person possessing a finished product as described in
31 paragraph (2)(c) or paragraph (3)(c);

1 (e) A person who extracts or synthesizes either
2 1,4-Butanediol or gamma-butyrolactone (GBL) from a finished
3 product as described in subparagraph(1)(j)2. or a person who
4 extracts or synthesizes 1,4-Butanediol or gamma-butyrolactone
5 (GBL) from any product or material, unless such extraction or
6 synthesis is authorized by law; or

7 (f) A person whose possession of either 1,4-Butanediol
8 or gamma-butyrolactone (GBL) is not in compliance with the
9 requirements of this section or whose possession of either of
10 those substances is not specifically authorized by law.

11 Section 2. Paragraph (d) of subsection (1) of section
12 893.03, Florida Statutes, is reenacted to read:

13 893.03 Standards and schedules.--The substances
14 enumerated in this section are controlled by this chapter.
15 The controlled substances listed or to be listed in Schedules
16 I, II, III, IV, and V are included by whatever official,
17 common, usual, chemical, or trade name designated. The
18 provisions of this section shall not be construed to include
19 within any of the schedules contained in this section any
20 excluded drugs listed within the purview of 21 C.F.R. s.
21 1308.22, styled "Excluded Substances"; 21 C.F.R. s. 1308.24,
22 styled "Exempt Chemical Preparations"; 21 C.F.R. s. 1308.32,
23 styled "Exempted Prescription Products"; or 21 C.F.R. s.
24 1308.34, styled "Exempt Anabolic Steroid Products."

25 (1) SCHEDULE I.--A substance in Schedule I has a high
26 potential for abuse and has no currently accepted medical use
27 in treatment in the United States and in its use under medical
28 supervision does not meet accepted safety standards. The
29 following substances are controlled in Schedule I:

30 (d) Unless specifically excepted or unless listed in
31 another schedule, any material, compound, mixture, or

1 preparation which contains any quantity of the following
2 substances, including any of its salts, isomers, optical
3 isomers, salts of their isomers, and salts of these optical
4 isomers whenever the existence of such isomers and salts is
5 possible within the specific chemical designation:

- 6 1. 1,4-Butanediol.
- 7 2. Gamma-butyrolactone (GBL).
- 8 3. Gamma-hydroxybutyric acid (GHB).
- 9 4. Methaqualone.
- 10 5. Mecloqualone.

11 Section 3. Paragraph (c) of subsection (1) of section
12 893.13, Florida Statutes, is amended to read:

13 893.13 Prohibited acts; penalties.--

14 (1)

15 (c) Except as authorized by this chapter, it is
16 unlawful for any person to sell, manufacture, or deliver, or
17 possess with intent to sell, manufacture, or deliver a
18 controlled substance in, on, or within 1,000 feet of the real
19 property comprising a child care facility as defined in s.
20 402.302 or a public or private elementary, middle, or
21 secondary school between the hours of 6 a.m. and 12 midnight
22 ~~a.m.~~ Any person who violates this paragraph with respect to:

23 1. A controlled substance named or described in s.
24 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,
25 commits a felony of the first degree, punishable as provided
26 in s. 775.082, s. 775.083, or s. 775.084. The defendant must
27 be sentenced to a minimum term of imprisonment of 3 calendar
28 years unless the offense was committed within 1,000 feet of
29 the real property comprising a child care facility as defined
30 in s. 402.302.

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1 2. A controlled substance named or described in s.
2 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5.,
3 (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a
4 felony of the second degree, punishable as provided in s.
5 775.082, s. 775.083, or s. 775.084.

6 3. Any other controlled substance, except as lawfully
7 sold, manufactured, or delivered, must be sentenced to pay a
8 \$500 fine and to serve 100 hours of public service in addition
9 to any other penalty prescribed by law.

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11 This paragraph does not apply to a child care facility unless
12 the owner or operator of the facility posts a sign that is not
13 less than 2 square feet in size with a word legend identifying
14 the facility as a licensed child care facility and that is
15 posted on the property of the child care facility in a
16 conspicuous place where the sign is reasonably visible to the
17 public.

18 Section 4. Subsection (7) of section 893.135, Florida
19 Statutes, is amended to read:

20 893.135 Trafficking; mandatory sentences; suspension
21 or reduction of sentences; conspiracy to engage in
22 trafficking.--

23 (7) For the purpose of further clarifying legislative
24 intent, the Legislature finds that the opinion in Hayes v.
25 State, 750 ~~760~~ So. 2d 1 (Fla. 1999) does not correctly
26 construe legislative intent. The Legislature finds that the
27 opinions in State v. Hayes, 720 So. 2d 1095 (Fla. 4th DCA
28 1998) and State v. Baxley, 684 So. 2d 831 (Fla. 5th DCA 1996)
29 correctly construe legislative intent.

30 Section 5. This act shall take effect upon becoming a
31 law.

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SENATE SUMMARY

Provides that 1,4-Butanediol and gamma-butyrolactone (GBL) are excepted from the schedule of controlled substances when used for certain industrial purposes and in the possession of an authorized manufacturer or distributor or when those substances are in the form of a finished product. Specifies that it is unlawful to sell, manufacture, deliver, or possess a controlled substance within 1,000 feet of a child care facility or public or private elementary, middle, or secondary school between the hours of 6 a.m. and 12 midnight. (See bill for details.)