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1 A bill to be entitled

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

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Section 893.031, Florida Statutes, is created
23 to read:

24 893.031 Industrial exceptions to controlled substance
25 scheduling.--

26 (1) For the purpose of this section, the following
27 meanings of terms shall apply:

28 (a) "Manufacture" means any process or operation necessary
29 for manufacturing a product.



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30 (b) "Distribution" means any process or operation
31 necessary for distributing a product, including, but not limited
32 to, wholesaling, delivery or transport, and storage.

33 (c) "Manufacturer of 1,4-Butanediol" means a person who is
34 involved in the manufacture of 1,4-Butanediol for use in the
35 manufacture of an industrial product, and who provides that
36 manufactured 1,4-Butanediol to a distributor of 1,4-Butanediol
37 or a manufacturer of an industrial product.

38 (d) "Distributor of 1,4-Butanediol" means a person who is
39 involved in the distribution of 1,4-Butanediol.

40 (e) "Manufacturer of gamma-butyrolactone (GBL)" means a
41 person who:

42 1. Is involved in the manufacture of gamma-butyrolactone
43 (GBL) for use in the manufacture of an industrial product, and
44 who provides that manufactured gamma-butyrolactone (GBL) to a
45 distributor of gamma-butyrolactone (GBL) or a manufacturer of an
46 industrial product; and

47 2. Is in compliance with any requirements to register with
48 the United States Drug Enforcement Administration as a List I
49 Chemical registrant.

50 (f) "Distributor of gamma-butyrolactone (GBL)" means a
51 person who:

52 1. Is involved in the distribution of gamma-butyrolactone
53 (GBL); and

54 2. Is in compliance with any requirements to register with
55 the United States Drug Enforcement Administration as a List I
56 Chemical registrant.

57 (g) "Manufacturer of an industrial product" means a person
58 who is involved in the manufacture of an industrial product in
59 which that person acquires:



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60 1. 1,4-Butanediol from a manufacturer of 1,4-Butanediol or
61 a distributor of 1,4-Butanediol, and who possesses that
62 substance for use in the manufacture of an industrial product;
63 or

64 2. Gamma-butyrolactone (GBL) from a manufacturer of gamma-
65 butyrolactone (GBL) or a distributor of gamma-butyrolactone
66 (GBL), and who possesses that substance for use in the
67 manufacture of an industrial product.

68 (h) "Distributor of an industrial product" means a person
69 who is involved in the distribution of an industrial product.

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

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

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

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

78 (2) 1,4-Butanediol is excepted from scheduling pursuant to
79 s. 893.03(1)(d)1., when that substance is in the possession of:

80 (a) A manufacturer of 1,4-Butanediol or a distributor of
81 1,4-Butanediol;

82 (b) A manufacturer of an industrial product or a
83 distributor of an industrial product; or

84 (c) A person possessing a finished product.

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

88 (a) A manufacturer of gamma-butyrolactone (GBL) or a
89 distributor of gamma-butyrolactone (GBL);



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90 (b) A manufacturer of an industrial product or a
91 distributor of an industrial product; or

92 (c) A person possessing a finished product.

93 (4) This section does not apply to:

94 (a) A manufacturer of 1,4-Butanediol or a distributor of
95 1,4-Butanediol who sells, delivers, or otherwise distributes
96 that substance to a person who is not a distributor of 1,4-
97 Butanediol or a manufacturer of an industrial product;

98 (b) A manufacturer of gamma-butyrolactone (GBL) or a
99 distributor of gamma-butyrolactone (GBL) who sells, delivers, or
100 otherwise distributes that substance to a person who is not a
101 distributor of gamma-butyrolactone (GBL) or a manufacturer of an
102 industrial product;

103 (c) A person who possesses 1,4-Butanediol but who is not a
104 manufacturer of 1,4-Butanediol, a distributor of 1,4-Butanediol,
105 a manufacturer of an industrial product, a distributor of an
106 industrial product, or a person possessing a finished product as
107 described in paragraph (2)(c) or paragraph (3)(c);

108 (d) A person who possesses gamma-butyrolactone (GBL) but
109 who is not a manufacturer of gamma-butyrolactone (GBL), a
110 distributor of gamma-butyrolactone (GBL), a manufacturer of an
111 industrial product, a distributor of an industrial product, or a
112 person possessing a finished product as described in paragraph
113 (2)(c) or paragraph (3)(c);

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



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

124 Section 2. Paragraph (d) of subsection (1) of section
125 893.03, Florida Statutes, is reenacted to read:

126 893.03 Standards and schedules.--The substances enumerated
127 in this section are controlled by this chapter. The controlled
128 substances listed or to be listed in Schedules I, II, III, IV,
129 and V are included by whatever official, common, usual,
130 chemical, or trade name designated. The provisions of this
131 section shall not be construed to include within any of the
132 schedules contained in this section any excluded drugs listed
133 within the purview of 21 C.F.R. s. 1308.22, styled "Excluded
134 Substances"; 21 C.F.R. s. 1308.24, styled "Exempt Chemical
135 Preparations"; 21 C.F.R. s. 1308.32, styled "Exempted
136 Prescription Products"; or 21 C.F.R. s. 1308.34, styled "Exempt
137 Anabolic Steroid Products."

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

143 (d) Unless specifically excepted or unless listed in
144 another schedule, any material, compound, mixture, or
145 preparation which contains any quantity of the following
146 substances, including any of its salts, isomers, optical
147 isomers, salts of their isomers, and salts of these optical
148 isomers whenever the existence of such isomers and salts is
149 possible within the specific chemical designation:



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- 150 1. 1,4-Butanediol.
- 151 2. Gamma-butyrolactone (GBL).
- 152 3. Gamma-hydroxybutyric acid (GHB).
- 153 4. Methaqualone.
- 154 5. Mecloqualone.

155 Section 3. Paragraph (c) of subsection (1) of section
 156 893.13, Florida Statutes, is amended to read:

157 893.13 Prohibited acts; penalties.--

158 (1)

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

167 1. A controlled substance named or described in s.
 168 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,
 169 commits a felony of the first degree, punishable as provided in
 170 s. 775.082, s. 775.083, or s. 775.084. The defendant must be
 171 sentenced to a minimum term of imprisonment of 3 calendar years
 172 unless the offense was committed within 1,000 feet of the real
 173 property comprising a child care facility as defined in s.
 174 402.302.

175 2. A controlled substance named or described in s.
 176 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
 177 (2)(c)7., (2)(c)8., (2)(c)9., (3), or(4) commits a felony of the
 178 second degree, punishable as provided in s. 775.082, s. 775.083,
 179 or s. 775.084.



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180 3. Any other controlled substance, except as lawfully
 181 sold, manufactured, or delivered, must be sentenced to pay a
 182 \$500 fine and to serve 100 hours of public service in addition
 183 to any other penalty prescribed by law.

184
 185 This paragraph does not apply to a child care facility unless
 186 the owner or operator of the facility posts a sign that is not
 187 less than 2 square feet in size with a word legend identifying
 188 the facility as a licensed child care facility and that is
 189 posted on the property of the child care facility in a
 190 conspicuous place where the sign is reasonably visible to the
 191 public.

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

194 893.135 Trafficking; mandatory sentences; suspension or
 195 reduction of sentences; conspiracy to engage in trafficking.--

196 (7) For the purpose of further clarifying legislative
 197 intent, the Legislature finds that the opinion in Hayes v.
 198 State, 750 ~~760~~ So. 2d 1 (Fla. 1999) does not correctly construe
 199 legislative intent. The Legislature finds that the opinions in
 200 State v. Hayes, 720 So. 2d 1095 (Fla. 4th DCA 1998) and State v.
 201 Baxley, 684 So. 2d 831 (Fla. 5th DCA 1996) correctly construe
 202 legislative intent.

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