

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Health Regulation Committee

BILL: SM 1762

INTRODUCER: Senator Smith

SUBJECT: Memorial to ban MDPV

DATE: April 8, 2011

REVISED: 4/12/11

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fernandez	Stovall	HR	Fav/1 amendment
2.				
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input checked="" type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

Senate Memorial 1762 urges the Congress of the United States to ban the sale, distribution, and possession of methylenedioxypropylamphetamine (MDPV). The memorial requests for immediate action to be taken to prevent MDPV from entering the state to avoid an imminent hazard to the public safety.

Approval of this Senate Memorial will have no fiscal impact on the state or local governments.

This Senate Memorial does not amend, create, or repeal any provisions of the Florida Statutes.

II. Present Situation:

Methylenedioxypropylamphetamine (MDPV)

MDPV is a psychoactive drug with stimulant properties and has no history of FDA-approved medical use. MDPV is a central nervous system stimulant that was first seized in Germany in 2007.¹ MDPV has been identified in products called “bath salts” and are known by a variety of

¹ Methylenedioxypropylamphetamine (MDPV). Drug Enforcement Administration. March 2011. (http://www.deadiversion.usdoj.gov/drugs_concern/mdpv.pdf), (Last visited on April 8, 2011).

street names.² Bath salts are abused as recreational drugs typically by injection, smoking, snorting, and, less often, by the use of an atomizer.³ Both the law enforcement community and medical professionals indicate that “bath salts” are becoming increasingly popular due to the perception that they pose a seemingly safer alternative to illegal methods of getting “high” and can easily be obtained.⁴

These “bath salts” are among the latest in a series of currently legal synthetic substances that, when used improperly, offer alternatives to illegal drugs.⁵ The acute side effects of MDPV include tachycardia, hypertension, vasoconstriction, and sweating. Higher doses of MDPV have caused intense, prolonged panic attacks in stimulant-intolerant users.⁶ The duration of the subjective effects is about 3 to 4 hours and the side effects continuing a total of 6 to 8 hours after administration.⁷ In most extreme cases, powdered “bath salt” products have been linked to self-mutilation and drug induced deaths to include an increased risk of suicide.⁸

Suspected as being produced as legal substitutes for ecstasy, cocaine, and amphetamines, “bath salts” are powerful stimulant drugs that are suspected to have been designed to avoid legal prosecution.⁹ These products are readily available at convenience stores, discount tobacco outlets, gas stations, pawnshops, tattoo parlors, and truck stops, among other locations.¹⁰ While it is unclear as to the population of MDPV users, there have been reports that MDPV being used predominantly by the youth population.¹¹

Florida Law

There are currently no Florida Statutes that regulate the sale, purchase, possession, or manufacture of “bath salts”. However, current law authorizes the Attorney General, by means of an emergency rule,¹² to schedule a substance on a temporary basis if it is found that scheduling the substance is necessary to avoid an imminent hazard to the public safety.¹³

On January 26, 2011, Attorney General Pam Bondi issued an emergency rule to add “bath salts” to Schedule I of Florida’s controlled substance schedule.¹⁴ Attorney General Bondi stated that,

² Bath salts are known by a variety of names including but not limited to: “Ivory Wave”, “Vanilla Sky”, “Pure Ivory”, “Whack”, “Bolivian Bath”, “Sextacy”, “Gloom”, “Purple Rain”, “Hurricane Charlie”, “Fly”, “Purple Wave”, “Charge+”, “Ocean Burst”, “Crush”, and “White Rush”.

³ National Drug Intelligence Center. U.S. Department of Justice. DRUG WATCH: Increasing abuse of bath salts. December 2010. A copy of this document is on file with the Senate Health Regulation Committee.

⁴ Florida Fusion Center Brief: “Bath Salts” Receive Emergency Drug Scheduling, The Florida Department of Law Enforcement (January 26, 2011). A copy of this document is on file with the Senate Health Regulation Committee.

⁵ *Id.*

⁶ *Supra* note 1.

⁷ *Id.*

⁸ *Supra* note 4.

⁹ *Id.*

¹⁰ *Supra* note 3.

¹¹ *Supra* note 1.

¹² *See* s. 120.54, F.S.

¹³ *See* s. 893.035(7), F.S.

¹⁴ Office of the Attorney General of Florida Pam Bondi, News Release: *Attorney General Bondi Files Emergency Rule Banning the Dangerous Synthetic Drug Marketed as “Bath Salts”*. January 26, 2011. Available at: <http://www.myfloridalegal.com/newsrel.nsf/newsreleases/81CC463863D88DC4852578240077FD45>, (Last visited on April 8, 2011).

“due to the violent nature of the side effects involved in taking these drugs, the emergency rule will provide law enforcement with the tools necessary to take this dangerous substance off the shelves and protect the abusers from themselves as well as others. These are dangerous drugs that should not be confused with any type of common bath product.”¹⁵ If the Legislature fails to take legislative action, the emergency rule scheduling “bath salts” will expire on June 30, 2011.¹⁶ While MDPV is not scheduled under the Federal Controlled Substances Act, many states,¹⁷ counties, cities and local municipalities have taken action to ban the drug.¹⁸

III. Effect of Proposed Changes:

Senate Memorial 1762 urges the Congress of the United States to ban the sale, distribution, and possession of methylenedioxypropylamphetamine (MDPV). The memorial requests for immediate action to be taken to prevent MDPV from entering the state to avoid an imminent hazard to the public safety.

Copies of the memorial are to be dispatched to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this CS have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this CS have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this CS have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

¹⁵ *Id.*

¹⁶ See s. 893.035(9), F.S. SB 1866 (2011) and HB 1039 (2011) contain provisions to schedule MDPV as a Schedule I controlled substance in Florida.

¹⁷ Hawaii, Michigan, Louisiana, Kentucky, and North Dakota have all introduced legislation to ban MDPV.

¹⁸ Nora D. Volkow, M.S., National Institute of Drug Abuse, Message from the Director on “Bath Salts”. Available at: <http://www.nida.nih.gov/about/welcome/MessageBathSalts211.html>, (Last visited on April 7, 2011).

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

The memorial uses an incorrect acronym for the substance on lines 4, 16, 18, and 25. The correct acronym is MDPV.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

Barcode 231150 by Health Regulation on April 12, 2011:

This amendment corrects the incorrectly used acronym for the substance on lines 4, 16, 18, and 25.