

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 731 Methylenedioxypropylvalerone (MDVP)

SPONSOR(S): Williams

TIED BILLS: **IDEN./SIM. BILLS:** SM 1762

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Federal Affairs Subcommittee	11 Y, 0 N	Cyphers	Cyphers
2) Judiciary Committee			

SUMMARY ANALYSIS

Methylenedioxypropylvalerone (MDVP), sometimes referred to as “bath salts”, is a central nervous system stimulant. In recent years, the abuse of bath salts has been increasing. Law enforcement and medical professionals have indicated “bath salts” are becoming increasingly popular due to the perception they pose a seemingly safer alternative to illegal methods of getting “high” and can easily be obtained.

Reports of the side effects of MDPV include tachycardia, hypertension, vasoconstriction, and sweating. However, higher doses of MDPV have caused intense, prolonged panic attacks in stimulant-intolerant users. Poison control centers in Florida have reported 61 calls of “bath salts” abuse, making the state the second-highest in call volume after Louisiana.

Florida Statutes do not regulate the sale, purchase, possession, or manufacture of “bath salts.” However, on January 26, 2011, Attorney General Pam Bondi, issued an emergency rule to add “bath salts” to Schedule I of Florida’s controlled substance schedules. Bath salts are not scheduled drugs under the Federal Controlled Substances Act; however, the Drug Enforcement Agency does include MDPV on its list of drugs and chemicals of concern. This memorial urges the Congress of the United States to ban the sale, distribution, and possession of MDVP.

The House Memorial does not amend, create, or repeal any provisions of the Florida Statutes.

The House Memorial has no fiscal impact on state or local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

MDVP

Methylenedioxypropylvalerone (MDVP), sometimes referred to as “bath salts”, is a central nervous system stimulant which was first seized in Germany in 2007.¹ MDPV is structurally related to cathinone, an active alkaloid found in the khat plant,² methamphetamine³, and methylenedioxymethamphetamine,⁴ and has not been approved for medical use in the United States.⁵ Bath salts are known by a variety of names, including "Red Dove," "Blue Silk," "Zoom," "Bloom," "Cloud Nine," "Ocean Snow," "Lunar Wave," "Vanilla Sky," "Ivory Wave," "White Lightning," "Scarface" "Purple Wave," "Blizzard," "Star Dust," "Lovey, Dovey," "Snow Leopard," "Aura," and "Hurricane Charlie." While they have become popular under the guise of being sold as “bath salts”, they are sometimes sold as other products such as insect repellent, or plant food with names like "Bonsai Grow" among others.⁶

Substance Abuse

In recent years, the abuse of “bath salts” has been increasing. Law enforcement and medical professionals have indicated “bath salts” are becoming increasingly popular due to the perception that pose a seemingly safer alternative to illegal methods of getting “high” and can easily be obtained.⁷ While the abuse of the substance MDPV has increased, particularly in Europe and Australia, in recent years, it has also begun to be increasingly used as a recreational drug in the U.S.⁸ User population information in the U.S. is very limited; however, there have been reports of MDVP being used predominantly by the youth population.⁹ The Drug Enforcement Administration’s (DEA) National Forensic Laboratory Information System indicates that state and local law enforcement officials encountered MDPV in 2009 and 2010 in Iowa, Kansas, Kentucky, Minnesota, North Dakota, Oklahoma, Texas, and Wisconsin.¹⁰

¹ Methylenedioxypropylvalerone (MDPV). Drug Enforcement Administration. March 2011. (http://www.deadiversion.usdoj.gov/drugs_concern/mdpv.pdf)

² “Khat” is a stimulant drug derived from a shrub that is native to East Africa and southern Arabia. The leaves of this plant contain the alkaloids cathine and cathinone, and are chewed for the stimulant effects. U.S. Drug Enforcement Administration. KHAT AKA: Catha Edulis. (<http://www.justice.gov/dea/pubs/pressrel/pr072606a.html>)

³ “Methamphetamine” is a central nervous system stimulant drug that is similar in structure to amphetamine. National Institutes of Health. *NIDA InfoFacts: Methamphetamine*. March 2010. (<http://www.nida.nih.gov/infofacts/methamphetamine.html>)

⁴ “Methylenedioxymethamphetamine” (MDMA) is a synthetic, psychoactive drug that is chemically similar to the stimulant methamphetamine and the hallucinogen mescaline. National Institutes of Health. *NIDA InfoFacts: MDMA (Ecstasy)*. December 2010. (<http://www.drugabuse.gov/Infofacts/ecstasy.html>)

⁵ Methylenedioxypropylvalerone (MDPV). Drug Enforcement Administration. March 2011. (http://www.deadiversion.usdoj.gov/drugs_concern/mdpv.pdf)

⁶ *Id.*

⁷ Florida Fusion Center, Unit Reporting: Office of Statewide Intelligence. “Bath Salts” Receive Emergency Drug Scheduling. Brief # 10-194 Public, January 26, 2011. (http://www.fdle.state.fl.us/Content/BathSalts/FDLEBrief10_194BathSaltsPublic.pdf)

⁸ Methylenedioxypropylvalerone (MDPV). Drug Enforcement Administration. March 2011. (http://www.deadiversion.usdoj.gov/drugs_concern/mdpv.pdf) (last accessed March 19, 2011).

⁹ *Id.*

¹⁰ *Id.*

“Bath salts” are readily available at convenience stores, discount tobacco outlets, gas stations, pawnshops, tattoo parlors, and truck stops, among other locations.¹¹ “Bath salts” are sold in 50mg to 500mg packets that usually contain a disclaimer, such as “not for human consumption.”¹² The costs of these substances range from \$25 - \$50 per 50mg packet. “Bath salts” are abused typically by injection, smoking, snorting, and less often, by the use of an atomizer.¹³ Some abusers describe the effects as similar to methamphetamine, ecstasy, and cocaine, and have referred to the substance as “complete crank” and “fake cocaine.”¹⁴

Reports of the side effects of MDPV include tachycardia, hypertension, vasoconstriction, and sweating.¹⁵ However, higher doses of MDPV have caused intense, prolonged panic attacks in stimulant-intolerant users.¹⁶ The duration of the subjective effects is about three to four hours and the side effects continuing a total of six to eight hours after administration.¹⁷

There have been numerous calls to poison control centers throughout the U.S. concerning the abuse of “bath salts”. Poison control centers in Florida have reported 61 calls of “bath salts” abuse, making the state the second-highest in call volume after Louisiana.¹⁸ Most of Florida’s cases have come from Central and Northern Florida, but disoriented users have also arrived in Broward County hospitals with high blood pressure and hallucinations, according to Nabil El Sanadi, Chief of Emergency Medicine at Broward Health.¹⁹ According to Panama City Beach police, one of the most shocking cases of “bath salts” abuse involved a woman who burst into her 71-year-old mother’s room swinging a machete.²⁰

Drug Schedules

Chapter 893, F.S., sets forth the Florida Comprehensive Drug Abuse Prevention and Control Act and classifies controlled substances into five categories, known as schedules. These schedules are used to regulate the manufacture, distribution, preparation and dispensing of the substances. The distinguishing factors between the different drug schedules are the “potential for abuse”²¹ of the substance contained therein and whether there is a currently accepted medical use for the substance. Schedule I substances have a high potential for abuse and have no currently accepted medical use in the United States.²² Cannabis and heroin are examples of Schedule I drugs.

Florida Law

Currently, Florida Statutes do not regulate the sale, purchase, possession, or manufacture of “bath salts”. However, current law authorizes the Attorney General, by means of an emergency rule,²³ 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.²⁴

¹¹ National Drug Intelligence Center. U.S. Department of Justice. DRUG WATCH: Increasing abuse of bath salts. December 2010.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Methylenedioxypropylvalerone (MDPV). Drug Enforcement Administration. March 2011.

(http://www.deadiversion.usdoj.gov/drugs_concern/mdpv.pdf) (last accessed March 19, 2011).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Alexia Campbell and Aaron Deslatte, Sun Sentinel, *Florida bans 'bath salt' drugs after violent outbursts*. January 27, 2011. (http://articles.sun-sentinel.com/2011-01-27/news/fl-bath-salts-florida-20110126_1_salts-fake-cocaine-bath)

¹⁹ *Id.*

²⁰ *Id.*

²¹ See s. 893.02(19), F.S.

²² See s. 893.03, F.S.

²³ Section 120.54, F.S.

²⁴ Section 893.035(7), F.S.

On January 26, 2011, Attorney General Pam Bondi, issued an emergency rule to add “bath salts” to Schedule I of Florida’s controlled substance schedules.²⁵ Attorney General Bondi stated that, “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.”²⁶ If the Legislature fails to take legislative action, the emergency rule scheduling “bath salts” will expire on June 30, 2011.²⁷

Other State Actions

Several states, including Florida (HB 1039), Hawaii, Michigan, Louisiana, Kentucky, and North Dakota, have introduced legislation to ban “bath salts”. In addition, several counties, cities, and local municipalities have also taken action to ban “bath salts”.²⁸

Federal Actions

Currently, “bath salts” are not scheduled drugs under the Federal Controlled Substances Act.²⁹ However, the DEA has listed MDPV and Mephedrone as drugs and chemicals of concern.³⁰ On February 1, 2011, Gil Kerlikowske, Director of National Drug Control Policy, released the following statement following recent reports indicating the emerging threat of synthetic stimulants, including MDPV and mephedrone:

"I am deeply concerned about the distribution, sale, and use of synthetic stimulants – especially those that are marketed as legal substances. Although we lack sufficient data to understand exactly how prevalent the use of these stimulants are, we know they pose a serious threat to the health and well-being of young people and anyone who may use them. At a time when drug use in America is increasing, the marketing and sale of these poisons as "bath salts" is both unacceptable and dangerous. As public health officials work to address this emerging threat, I ask that parents and other adult influencers act immediately to discuss with young people the severe harm that can be caused by the use of both legal and illegal drugs and to prevent drug use before it starts."³¹

²⁵ Office of the Attorney General of Florida Pam Bondi, New Release: *Attorney General Bondi Files Emergency Rule Banning the Dangerous Synthetic Drug Marketed as "Bath Salts"* January 26, 2011.

(<http://www.myfloridalegal.com/newsrel.nsf/newsreleases/81CC463863D88DC4852578240077FD45>)

²⁶ *Id.*

²⁷ Section 893.035(9), F.S.

²⁸ Nora D. Volkow, M.D., National Institute of Drug Abuse, Message from the Director on "Bath Salts" - Emerging and Dangerous Products. (<http://www.nida.nih.gov/about/welcome/MessageBathSalts211.html>)

²⁹ Methylenedioxypropylvalerone (MDPV). Drug Enforcement Administration. March 2011. (http://www.dea diversion.usdoj.gov/drugs_concern/mdpv.pdf)

³⁰ 33U.S. Department of Justice drug Administration. Drugs and Chemicals of Concern. (http://www.dea diversion.usdoj.gov/drugs_concern/index.html)

³¹ Office of National Drug Control Policy, Press Release: Statement from White House Drug Policy Director on Synthetic Stimulants, a.k.a "Bath Salts". February 1, 2011. (<http://www.whitehousedrugpolicy.gov/news/press11/020111.html>)

Effect of Proposed Changes

This memorial urges the Congress of the United States to ban the sale, distribution, and possession of MDVP.

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

The legislation also includes whereas clauses in order to support the memorial. The whereas clauses include:

WHEREAS, methylenedioxypropylamphetamine (MDPV) is a psychoactive drug with stimulant properties and has no history of FDA-approved medical use, and

WHEREAS, MDPV acts as a stimulant and has been reported to have amphetamine-like or cocaine-type effects, which include physical rapid heartbeat, vasoconstriction, sweating, euphoria, anxiety, agitation, perception of a diminished requirement for food and sleep, and increases in alertness, awareness, wakefulness, arousal, and blood pressure and

WHEREAS, Florida's Attorney General has issued an emergency order banning the sale of substances containing MDVP in the state for a limited period, and

WHEREAS, federal action is needed to control MDVP and keep it from entering this state from elsewhere...

B. SECTION DIRECTORY:

Not Applicable

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable

2. Other:

None

B. RULE-MAKING AUTHORITY:

Not Applicable

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES