



2005 SENATE BILL 294

August 19, 2005 - Introduced by Senators KANAVAS and ROESSLER, cosponsored by Representatives LAMB, GARD, GIELOW, OTT, ALBERS, LOTHIAN, TOWNSEND, FRISKE and SHERIDAN. Referred to Committee on Judiciary, Corrections and Privacy.

1 **AN ACT** *to renumber* 961.01 (1); *to amend* 961.14 (5) (ag), 961.41 (1) (hm)
2 (intro.), 961.41 (1m) (hm) (intro.), 961.41 (2) (bm) and 961.41 (3g) (f); and *to*
3 **create** 961.01 (1g) and 961.01 (11s) of the statutes; **relating to:** defining
4 certain uses of gamma-butyrolactone and 1,4-butanediol as controlled
5 substances.

Analysis by the Legislative Reference Bureau

Under current law, the legislature or the Controlled Substances Board lists controlled substances (dangerous drugs) by chemical name in one of five schedules based on the substance's accepted medical use and the potential for abuse of the substance. Among the controlled substances currently placed in Schedule I is gamma-butyrolactone (GBL), which is a depressant.

As a result of its inclusion in Schedule I, no person may: 1) manufacture, distribute, or deliver GBL; 2) possess GBL with intent to manufacture, distribute, or deliver it; or 3) possess or attempt to possess GBL under any other circumstances (simple possession). A person who violates the first or second of these prohibitions is guilty of a Class C, D, E, or F felony, depending on the amount of GBL involved. A person who violates the prohibition on simple possession is guilty of a Class H felony.

The penalties for these offenses and the amount of GBL that corresponds to each of the relevant felony classes are as follows:

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<i>Class of Felony</i>	<i>Amount Required for Prosecuting This Offense</i>	<i>Maximum Fine</i>	<i>Maximum Initial Term of Confinement</i>
C	More than 50 grams	\$100,000	40 years
D	More than ten but not more than 50 grams	\$100,000	25 years
E	More than three but not more than ten grams	\$ 50,000	15 years
F	Three grams or less	\$ 25,000	12 and one-half years
H	Specific quantity not required	\$ 10,000	Six years

This bill specifies that GBL is a Schedule I controlled substance only as it is packaged, marketed, manufactured, or promoted for human consumption. Therefore, under the bill, the restrictions and penalties under current law apply only if GBL is packaged, marketed, manufactured, or promoted for human consumption.

The bill also makes 1,4-butanediol (BDO) a Schedule I controlled substance, but only as it is packaged, marketed, manufactured, or promoted for human consumption. BDO, which is not currently included in any of the schedules of controlled substances, is an industrial solvent that, when ingested, is converted to gamma-hydroxybutyrate, which is a depressant that is a Schedule I controlled substance. The bill provides that the same restrictions and penalties that apply to GBL also apply to BDO.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 961.01 (1) of the statutes is renumbered 961.01 (1r).

2 **SECTION 2.** 961.01 (1g) of the statutes is created to read:

3 961.01 (1g) "1,4-butanediol" means 1,4-butanediol as packaged, marketed,
4 manufactured, or promoted for human consumption, but does not include

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1 1,4-butanediol intended for use or consumption in or for mechanical, industrial,
2 manufacturing, or scientific applications or purposes.

3 **SECTION 3.** 961.01 (11s) of the statutes is created to read:

4 961.01 (11s) "Gamma-butyrolactone" means gamma-butyrolactone as
5 packaged, marketed, manufactured, or promoted for human consumption, but does
6 not include gamma-butyrolactone intended for use or consumption in or for
7 mechanical, industrial, manufacturing, or scientific applications or purposes.

8 **SECTION 4.** 961.14 (5) (ag) of the statutes is amended to read:

9 961.14 (5) (ag) Gamma-hydroxybutyric acid (commonly known as gamma
10 hydroxybutyrate or "GHB") ~~and, gamma-butyrolactone, and 1,4-butanediol.~~

11 **SECTION 5.** 961.41 (1) (hm) (intro.) of the statutes is amended to read:

12 961.41 (1) (hm) *Certain other schedule I controlled substances and ketamine.*
13 (intro.) If the person violates this subsection with respect to gamma-hydroxybutyric
14 acid, gamma-butyrolactone, 1,4-butanediol,
15 3,4-methylenedioxymethamphetamine, 4-bromo-2,5-dimethoxy-beta-
16 phenylethylamine, 4-methylthioamphetamine, ketamine, or a controlled substance
17 analog of gamma-hydroxybutyric acid, gamma-butyrolactone, 1,4-butanediol,
3,4-methylenedioxymethamphetamine,
18 4-bromo-2,5-dimethoxy-beta-phenylethylamine, or 4-methylthioamphetamine
19 and the amount manufactured, distributed, or delivered is:

21 **SECTION 6.** 961.41 (1m) (hm) (intro.) of the statutes is amended to read:

22 961.41 (1m) (hm) *Certain other schedule I controlled substances and ketamine.*
23 (intro.) If the person violates this subsection with respect to gamma-hydroxybutyric
24 acid, gamma-butyrolactone, 1,4-butanediol,
3,4-methylenedioxymethamphetamine

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25 4-bromo-2,5-dimethoxy-beta-phenylethylamine, 4-methylthioamphetamine,
2 ketamine, or a controlled substance analog of gamma-hydroxybutyric acid,
3 gamma-butyrolactone, 1,4-butanediol, 3,4-methylenedioxymethamphetamine
4 4-bromo-2,5-dimethoxy-beta-phenylethylamine, or 4-methylthioamphetamine is
5 subject to the following penalties if the amount possessed, with intent to
6 manufacture, distribute, or deliver is:

7 **SECTION 7.** 961.41 (2) (bm) of the statutes is amended to read:

8 961.41 (2) (bm) *Counterfeit of phencyclidine and certain other drugs.* If a
9 person violates this subsection with respect to a counterfeit substance that is a
10 counterfeit of phencyclidine, methamphetamine, lysergic acid diethylamide,
11 gamma-hydroxybutyric acid, gamma-butyrolactone, 1,4-butanediol,
12 3,4-methylenedioxymethamphetamine,
13 4-bromo-2,5-dimethoxy-beta-phenylethylamine, 4-methylthioamphetamine, or
14 ketamine, the person is subject to the applicable fine and imprisonment for
15 manufacture, distribution, delivery, or possession with intent to manufacture,
16 distribute, or deliver, of the genuine controlled substance under sub. (1) or (1m).

17 **SECTION 8.** 961.41 (3g) (f) of the statutes is amended to read:

18 961.41 (3g) (f) *Gamma-hydroxybutyric acid, gamma-butyrolactone,*
19 *1,4-butanediol*, *ketamine, or flunitrazepam.* If a person possesses or attempts to
20 possess gamma-hydroxybutyric acid, gamma-butyrolactone, 1,4-butanediol,
21 ketamine or flunitrazepam, the person is guilty of a Class H felony.

22 **SECTION 9. Initial applicability.**

