

Committee Substitute for Senate Bill No. 1932

An act relating to controlled substances; authorizing the creation of a pilot program in Orange County to intercept illegal drug shipments through package delivery services; amending ss. 823.10, 823.01, F.S.; providing that a person who willfully keeps or maintains or aids or abets another in keeping or maintaining certain types of places where controlled substances are unlawfully used, kept, sold, or delivered commits the offense of keeping or maintaining a public nuisance; providing a penalty; amending s. 877.111, F.S., relating to inhalation, ingestion, sale, purchase, or transfer of certain harmful chemical substances; providing exceptions to applications of offenses relating to unlawful distribution, sale, purchase, transfer, or possession of nitrous oxide; amending s. 893.03, F.S., relating to controlled substance standards and schedules; adding 4-methoxymethamphetamine, 1, 4-Butanediol, Gamma-butyrolactone (GBL), Gamma-hydroxybutyric acid (GBH), methaqualone, and mecloqualone to Schedule I; deleting 1, 4-Butanediol and Gamma-hydroxybutyric acid from Schedule II; adding drug products containing Gamma-hydroxybutyric acid which are approved under the Federal Food, Drug, and Cosmetic Act to Schedule III; amending s. 893.033, F.S., relating to listed chemicals; adding chloroephedrine and chloropseudoephedrine to the list of precursor chemicals; amending s. 893.135, F.S., relating to drug trafficking; creating offenses for trafficking in Gamma-butyrolactone (GBL) and lysergic acid diethylamide (LSD); providing penalties; amending scheduling references for trafficking in Gamma-hydroxybutyric acid (GHB) and 1, 4-Butanediol; providing effective dates.

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

Section 1. The Legislature finds that drug traffickers are increasingly employing package-delivery services to illegally transport narcotics into the state. In accordance with this finding, the Legislature authorizes the creation of a 3-year pilot program in Orange County, Florida to target and intercept the illegal shipment of narcotics via package-delivery services. This pilot program shall be created and supervised by the Orange County Sheriff's Office. The Orange County Sheriff's Office shall make a formal report of its findings to the Legislature by May 1, 2004.

Section 2. Subsection (1) of section 823.10, Florida Statutes, is amended to read:

823.10 Place where controlled substances are illegally kept, sold, or used declared a public nuisance.—

(1) Any store, shop, warehouse, dwelling house, building, structure, vehicle, ship, boat, vessel, or aircraft, or any place whatever, which is visited by persons for the purpose of unlawfully using any substance controlled under chapter 893 or any drugs as described in chapter 499, or which is used for

the illegal keeping, selling, or delivering of the same, shall be deemed a public nuisance. No person shall keep or maintain such public nuisance or aid and abet another in keeping or maintaining such public nuisance. Any person who willfully keeps or maintains a public nuisance or willfully aids or abets another in keeping or maintaining a public nuisance, and such public nuisance is a warehouse, structure, or building, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 3. Section 823.01, Florida Statutes, is amended to read:

823.01 Nuisances; penalty.—All nuisances ~~that which~~ tend to annoy the community, ~~or~~ injure the health of the citizens in general, or ~~to~~ corrupt the public morals, are misdemeanors of the second degree, punishable as provided in s. 775.083, except that a violation of s. 823.10 is a felony of the third degree.

Section 4. Subsection (4) of section 877.111, Florida Statutes, is amended to read:

877.111 Inhalation, ingestion, possession, sale, purchase, or transfer of harmful chemical substances; penalties.—

(4) Any person who knowingly distributes, sells, purchases, transfers, or possesses more than 16 grams of nitrous oxide ~~for any use other than:~~

~~(a) As part of the care or treatment of a disease or injury by a practitioner licensed under chapter 458, chapter 459, chapter 464, chapter 466, or chapter 474;~~

~~(b) As a food processing propellant;~~

~~(c) As a semiconductor oxidizer;~~

~~(d) As an analytical chemistry oxidizer in atomic absorption spectrometry;~~

~~(e) In the production of chemicals used to inflate airbags;~~

~~(f) As an oxidizer for chemical production, combustion, or jet propulsion; or~~

~~(g) When mixed with not less than 100 parts per million of sulfur dioxide~~

commits a felony of the third degree which shall be known as unlawful distribution of nitrous oxide, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For purposes of this subsection, in addition to proving by any other means that nitrous oxide was knowingly possessed, distributed, sold, purchased, or transferred ~~for any purpose not specified in paragraphs (a)-(g)~~, proof that any person discharged, or aided another in discharging, nitrous oxide to inflate a balloon or any other object suitable for subsequent inhalation creates an inference of the person's knowledge that the nitrous oxide's use was for an unlawful a purpose ~~other than those~~

provided in paragraphs (a)-(g). This subsection does not apply to the possession and use of nitrous oxide as part of the care and treatment of a disease or injury by a practitioner licensed under chapter 458, chapter 459, chapter 464, chapter 466, or chapter 474; as a food-processing propellant; as a semiconductor oxidizer; as an analytical chemistry oxidizer in atomic absorption spectrometry; in the production of chemicals used to inflate airbags; as an oxidizer for chemical production, combustion, or jet propulsion; or as a motor vehicle induction additive when mixed with sulphur dioxide.

Section 5. Paragraphs (c) and (d) of subsection (1) and paragraph (b) of subsection (2) of section 893.03, Florida Statutes, are amended and paragraph (g) is added to subsection (3) of that section, to read:

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

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

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances or which contains any of their salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

1. Alpha-ethyltryptamine.
2. 2-Amino-4-methyl-5-phenyl-2-oxazoline (4-methylaminorex).
3. 2-Amino-5-phenyl-2-oxazoline (Aminorex).
4. 4-Bromo-2,5-dimethoxyamphetamine.
5. 4-Bromo-2, 5-dimethoxyphenethylamine.
6. Bufotenine.
7. Cannabis.
8. Cathinone.
9. Diethyltryptamine.

10. 2,5-Dimethoxyamphetamine.
11. 2,5-Dimethoxy-4-ethylamphetamine (DOET).
12. Dimethyltryptamine.
13. N-Ethyl-1-phenylcyclohexylamine (PCE) (Ethylamine analog of phencyclidine).
14. N-Ethyl-3-piperidyl benzilate.
15. N-ethylamphetamine.
16. Fenethylamine.
17. N-Hydroxy-3,4-methylenedioxyamphetamine.
18. Ibogaine.
19. Lysergic acid diethylamide (LSD).
20. Mescaline.
21. Methcathinone.
22. 5-Methoxy-3,4-methylenedioxyamphetamine.
23. 4-methoxyamphetamine.
24. 4-methoxymethamphetamine.
- ~~25.~~24. 4-Methyl-2,5-dimethoxyamphetamine.
- ~~26.~~25. 3,4-Methylenedioxy-N-ethylamphetamine.
- ~~27.~~26. 3,4-Methylenedioxyamphetamine.
- ~~28.~~27. N-Methyl-3-piperidyl benzilate.
- ~~29.~~28. N,N-dimethylamphetamine.
- ~~30.~~29. Parahexyl.
- ~~31.~~30. Peyote.
- ~~32.~~31. N-(1-Phenylcyclohexyl)-pyrrolidine (PCPY) (Pyrrolidine analog of phencyclidine).
- ~~33.~~32. Psilocybin.
- ~~34.~~33. Psilocyn.
- ~~35.~~34. Tetrahydrocannabinols.
- ~~36.~~35. 1-[1-(2-Thienyl)-cyclohexyl]-piperidine (TCP) (Thiophene analog of phencyclidine).

~~37.36.~~ 3,4,5-Trimethoxyamphetamine.

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances ~~methaqualone or mecloqualone~~, including any of its salts, isomers, optical isomers, salts of their isomers, and salts of these optical isomers whenever the existence of such isomers and salts is possible within the specific chemical designation:-

1. 1,4-Butanediol.
2. Gamma-butyrolactone (GBL).
3. Gamma-hydroxybutyric acid (GHB).
4. Methaqualone.
5. Mecloqualone.

(2) SCHEDULE II.—A substance in Schedule II has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States, and abuse of the substance may lead to severe psychological or physical dependence. The following substances are controlled in Schedule II:

(b) Unless specifically excepted or unless listed in another schedule, any of the following substances, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

1. Alfentanil.
2. Alphaprodine.
3. Anileridine.
4. Bezitramide.
5. Bulk propoxyphene (nondosage forms).
6. ~~1,4-Butanediol.~~
- 6.7. Carfentanil.
- 7.8. Dihydrocodeine.
- 8.9. Diphenoxylate.
- 9.10. Fentanyl.
11. ~~Gamma-hydroxybutyric acid (GHB).~~
- 10.12. Isomethadone.

- ~~11.13.~~ Levomethorphan.
- ~~12.14.~~ Levorphanol.
- ~~13.15.~~ Metazocine.
- ~~14.16.~~ Methadone.
- ~~15.17.~~ Methadone-Intermediate,4-cyano-2-dimethylamino-4,4-diphenylbutane.
- ~~16.18.~~ Moramide-Intermediate,2-methyl-3-morpholino-1,1-diphenylpropane-carboxylic acid.
- ~~17.19.~~ Nabilone.
- ~~18.20.~~ Pethidine (meperidine).
- ~~19.21.~~ Pethidine-Intermediate-A,4-cyano-1-methyl-4-phenylpiperidine.
- ~~20.22.~~ Pethidine-Intermediate-B,ethyl-4-phenylpiperidine-4-carboxylate.
- ~~21.23.~~ Pethidine-Intermediate-C,1-methyl-4-phenylpiperidine-4-carboxylic acid.
- ~~22.24.~~ Phenazocine.
- ~~23.25.~~ Phencyclidine.
- ~~24.26.~~ 1-Phenylcyclohexylamine.
- ~~25.27.~~ Piminodine.
- ~~26.28.~~ 1-Piperidinocyclohexanecarbonitrile.
- ~~27.29.~~ Racemethorphan.
- ~~28.30.~~ Racemorphan.
- ~~29.31.~~ Sufentanil.

(3) SCHEDULE III.—A substance in Schedule III has a potential for abuse less than the substances contained in Schedules I and II and has a currently accepted medical use in treatment in the United States, and abuse of the substance may lead to moderate or low physical dependence or high psychological dependence or, in the case of anabolic steroids, may lead to physical damage. The following substances are controlled in Schedule III:

(g) Any drug product containing gamma-hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under s. 505 of the Federal Food, Drug, and Cosmetic Act.

Section 6. Subsection (1) of section 893.033, Florida Statutes, is amended to read:

893.033 Listed chemicals.—The chemicals listed in this section are included by whatever official, common, usual, chemical, or trade name designated.

(1) PRECURSOR CHEMICALS.—The term “listed precursor chemical” means a chemical that may be used in manufacturing a controlled substance in violation of this chapter and is critical to the creation of the controlled substance, and such term includes any salt, optical isomer, or salt of an optical isomer, whenever the existence of such salt, optical isomer, or salt of optical isomer is possible within the specific chemical designation. The following are “listed precursor chemicals”:

- (a) Anthranilic acid.
- (b) Benzyl chloride.
- (c) Benzyl cyanide.
- (d) Chloroephedrine.
- (e) Chloropseudoephedrine.
- ~~(f)(d)~~ Ephedrine.
- ~~(g)(e)~~ Ergonovine.
- ~~(h)(f)~~ Ergotamine.
- ~~(i)(g)~~ Ethylamine.
- ~~(j)(h)~~ Isosafrole.
- ~~(k)(i)~~ Methylamine.
- ~~(l)(j)~~ 3, 4-Methylenedioxyphenyl-2-propanone.
- (m)(k) N-acetylanthranilic acid.
- (n)(l) N-ethylephedrine.
- ~~(o)(m)~~ N-ethylpseudoephedrine.
- ~~(p)(n)~~ N-methylephedrine.
- ~~(q)(o)~~ N-methylpseudoephedrine.
- ~~(r)(p)~~ Norpseudoephedrine.
- (s)(q) Phenylacetic acid.
- (t)(r) Phenylpropanolamine.
- (u)(s) Piperidine.
- (v)(t) Piperonal.

~~(w)(u)~~ Propionic anhydride.

~~(x)(v)~~ Pseudoephedrine.

~~(y)(w)~~ Safrole.

Section 7. Paragraph (h) of subsection (1) of section 893.135, Florida Statutes, is amended, present paragraphs (i) and (j) of that subsection are redesignated as paragraphs (j) and (k), respectively, and amended, and new paragraphs (i) and (l) are added to that subsection, to read:

893.135 Trafficking; mandatory sentences; suspension or reduction of sentences; conspiracy to engage in trafficking.—

(1) Except as authorized in this chapter or in chapter 499 and notwithstanding the provisions of s. 893.13:

(h)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 1 kilogram or more of gamma-hydroxybutyric acid (GHB), as described in s. 893.03(1)(d) ~~s. 893.03(2)(b)~~, or any mixture containing gamma-hydroxybutyric acid (GHB), commits a felony of the first degree, which felony shall be known as “trafficking in gamma-hydroxybutyric acid (GHB),” punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 1 kilogram or more but less than 5 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of \$50,000.

b. Is 5 kilograms or more but less than 10 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of \$100,000.

c. Is 10 kilograms or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of \$250,000.

2. Any person who knowingly manufactures or brings into this state 150 kilograms or more of gamma-hydroxybutyric acid (GHB), as described in s. 893.03(1)(d) ~~s. 893.03(2)(b)~~, or any mixture containing gamma-hydroxybutyric acid (GHB), and who knows that the probable result of such manufacture or importation would be the death of any person commits capital manufacture or importation of gamma-hydroxybutyric acid (GHB), a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(i)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 1 kilogram or more of gamma-butyrolactone (GBL), as described in s. 893.03(1)(d), or any mixture containing gamma-butyrolactone (GBL), commits a felony of the first degree, which felony shall be known as

“trafficking in gamma-butyrolactone (GBL),” punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 1 kilogram or more but less than 5 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of \$50,000.

b. Is 5 kilograms or more but less than 10 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of \$100,000.

c. Is 10 kilograms or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of \$250,000.

2. Any person who knowingly manufactures or brings into the state 150 kilograms or more of gamma-butyrolactone (GBL), as described in s. 893.03(1)(d), or any mixture containing gamma-butyrolactone (GBL), and who knows that the probably result of such manufacture or importation would be the death of any person commits capital manufacture or importation of gamma-butyrolactone (GBL), a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(j)(#)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 1 kilogram or more of 1,4-Butanediol as described in ~~s. 893.03(1)(d) s. 893.03(2)(b)~~, or of any mixture containing 1,4-Butanediol, commits a felony of the first degree, which felony shall be known as “trafficking in 1,4-Butanediol,” punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 1 kilogram or more, but less than 5 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of \$50,000.

b. Is 5 kilograms or more, but less than 10 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of \$100,000.

c. Is 10 kilograms or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of \$500,000.

2. Any person who knowingly manufactures or brings into this state 150 kilograms or more of 1,4-Butanediol as described in ~~s. 893.03(1)(d) s. 893.03(2)(b)~~, or any mixture containing 1,4-Butanediol, and who knows that the probable result of such manufacture or importation would be the death of any person commits capital manufacture or importation of 1,4-Butanediol, a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(k)(j)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 10 grams or more of any of the following substances described in s. 893.03(1)(a) or (c):

- a. 3,4-Methylenedioxyamphetamine (MDMA);
- b. 4-Bromo-2,5-dimethoxyamphetamine;
- c. 4-Bromo-2,5-dimethoxyphenethylamine;
- d. 2,5-Dimethoxyamphetamine;
- e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
- f. N-ethylamphetamine;
- g. N-Hydroxy-3,4-methylenedioxyamphetamine;
- h. 5-Methoxy-3,4-methylenedioxyamphetamine;
- i. 4-methoxyamphetamine;
- j. 4-methoxymethamphetamine;
- k. 4-Methyl-2,5-dimethoxyamphetamine;
- l. 3,4-Methylenedioxy-N-ethylamphetamine;
- m. 3,4-Methylenedioxyamphetamine;
- n. N,N-dimethylamphetamine; or
- o. 3,4,5-Trimethoxyamphetamine,

individually or in any combination of or any mixture containing any substance listed in sub-subparagraphs a.-o. ~~a.-h.~~, commits a felony of the first degree, which felony shall be known as “trafficking in Phenethylamines,” punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. If the quantity involved:

a. Is 10 grams or more but less than 200 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of \$50,000.

b. Is 200 grams or more, but less than 400 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of \$100,000.

c. Is 400 grams or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of \$250,000.

3. Any person who knowingly manufactures or brings into this state 30 kilograms or more of any of the following substances described in s. 893.03(1)(a) or (c):

- a. 3,4-Methylenedioxyamphetamine (MDMA);
- b. 4-Bromo-2,5-dimethoxyamphetamine;
- c. 4-Bromo-2,5-dimethoxyphenethylamine;
- d. 2,5-Dimethoxyamphetamine;
- e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
- f. N-ethylamphetamine;
- g. N-Hydroxy-3,4-methylenedioxyamphetamine;
- h. 5-Methoxy-3,4-methylenedioxyamphetamine;
- i. 4-methoxyamphetamine;
- j. 4-methoxymethamphetamine;
- k.~~j.~~ 4-Methyl-2,5-dimethoxyamphetamine;
- l.~~k.~~ 3,4-Methylenedioxy-N-ethylamphetamine;
- m.~~l.~~ 3,4-Methylenedioxyamphetamine;
- n.~~m.~~ N,N-dimethylamphetamine; or
- o.~~n.~~ 3,4,5-Trimethoxyamphetamine,

individually or in any combination of or any mixture containing any substance listed in sub-subparagraphs a.-o. ~~a.-n.~~, and who knows that the probable result of such manufacture or importation would be the death of any person commits capital manufacture or importation of Phenethylamines, a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(l)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 1 gram or more of lysergic acid diethylamide (LSD) as described in s. 893.03(1)(c), or of any mixture containing lysergic acid diethylamide (LSD), commits a felony of the first degree, which felony shall be known as "trafficking in lysergic acid diethylamide (LSD)," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 1 gram or more, but less than 5 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of \$50,000.

b. Is 5 grams or more, but less than 7 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of \$100,000.

c. Is 7 grams or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of \$500,000.

2. Any person who knowingly manufactures or brings into this state 7 grams or more of lysergic acid diethylamide (LSD) as described in s. 893.03(1)(c), or any mixture containing lysergic acid diethylamide (LSD), and who knows that the probable result of such manufacture or importation would be the death of any person commits capital manufacture or importation of lysergic acid diethylamide (LSD), a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

Section 8. This act shall take effect July 1, 2001, except that this section and section 1 of this act shall take effect upon becoming a law.

Approved by the Governor May 25, 2001.

Filed in Office Secretary of State May 25, 2001.