

## Committee Substitute for Senate Bill No. 160

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

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

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

893.031 Industrial exceptions to controlled substance scheduling.—

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

(a) “Manufacture” means any process or operation necessary for manufacturing a product.

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

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

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

(e) “Manufacturer of gamma-butyrolactone (GBL)” means a person who:

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

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

(f) “Distributor of gamma-butyrolactone (GBL)” means a person who:

1. Is involved in the distribution of gamma-butyrolactone (GBL); and
2. Is in compliance with any requirements to register with the United States Drug Enforcement Administration as a List I Chemical registrant.

(g) “Manufacturer of an industrial product” means a person who is involved in the manufacture of an industrial product in which that person acquires:

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

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

(h) “Distributor of an industrial product” means a person who is involved in the distribution of an industrial product.

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

(j) “Finished product” means a product:

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

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

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

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

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

(c) A person possessing a finished product.

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

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

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

(c) A person possessing a finished product.

(4) This section does not apply to:

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

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

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

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

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

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

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

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, 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.

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

893.13 Prohibited acts; penalties.—

(1)

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

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

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

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

This paragraph does not apply to a child care facility unless the owner or operator of the facility posts a sign that is not less than 2 square feet in size with a word legend identifying the facility as a licensed child care facility

and that is posted on the property of the child care facility in a conspicuous place where the sign is reasonably visible to the public.

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

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

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

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

Approved by the Governor May 2, 2003.

Filed in Office Secretary of State May 2, 2003.