SENATE BILL 294 (LRB -3283)

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

2005

09-13.	S.	Introduced by Senators **Kanavas** and **Roessler**; cosponsored by Representatives **Lamb**, **Gard**, **Gielow**, **Ott**, **Albers**, **Lothian**, **Townsend**, **Friske** and **Sheridan**.	
08-19.	S.	Read first time and referred to committee on Judiciary, Corrections and Privacy	327
08-31.	S.	Fiscal estimate received.	
09-07.	S.	Fiscal estimate received.	
09-13.	S.	Public hearing held.	
09-13.	S.	Executive action taken.	
09-15.	S.	Fiscal estimate received.	
09-15.	S.	Report passage recommended by committee on Judiciary, Corrections and Privacy, Ayes 5, Noes 0	350
09-15.	S.	Available for scheduling.	
09-21.	S.	Placed on calendar 9-27-2005 pursuant to Senate Rule 18(1).	
09-27.	S.	Read a second time	368
09-27.	S.	Ordered to a third reading	368
09-27.	S.	Rules suspended	368
09-27.	S.	Read a third time and **passed**	368
09-27.	S.	Ordered immediately messaged	368
10-03.	A.	Received from Senate	511
10-03.	A.	Read first time and referred to committee on Criminal Justice and Homeland Security	512
10-19.	A.	Public hearing held.	
10-27.	A.	Executive action taken.	
10-31.	A.	Report concurrence recommended by committee on Criminal Justice and Homeland Security, Ayes 11, Noes 0	557
10-31.	A.	Referred to committee on Rules	557
11-01.	A.	Placed on calendar 11-9-2005 by committee on Rules.	
11-09.	A.	Read a second time	603
11-09.	A.	Ordered to a third reading	603
11-09.	A.	Rules suspended	603
11-09.	A.	Read a third time and **concurred in**	603
11-09.	A.	Ordered immediately messaged	603
11-10.	S.	Received from Assembly concurred in.	

2005
ENROLLED BILL

05en S B-294

ADOPTED DOCUMENTS:

☒ Orig ☐ Engr ___ SubAmdt ___ 05-3283/1

Amendments to above (if none, write "NONE"): none

Corrections – show date (if none, write "NONE"): none

Topic relay

11/10/05
Date

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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.

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

Class of Felony	*Amount Required for Prosecuting This Offense*	*Maximum Fine*	*Maximum Initial Term of Confinement*
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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 9. Initial applicability.

1 (1) The treatment of section 961.01 (11s) of the statutes first applies to cases
2 in which a judgment of conviction has not yet been entered as of the effective date
3 of this subsection.

4 **(END)**