

2007 DRAFTING REQUEST

Bill

Received: 02/21/2007

Received By: rryan

Wanted: As time permits

Identical to LRB:

For: Sheldon Wasserman (608) 266-7671

By/Representing: Joe Hoey

This file may be shown to any legislator: NO

Drafter: rryan

May Contact:

Addl. Drafters:

Subject: Criminal Law - drugs

Extra Copies:

Submit via email: YES

Requester's email: Rep.Wasserman@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Salvia divinorum

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/P1	rryan 04/18/2007	wjackson 04/23/2007	pgreensl 04/23/2007	_____	cduerst 04/23/2007		
	rryan 05/01/2007	wjackson 05/03/2007		_____			
/1			nmatzke 05/03/2007	_____	sbasford 05/03/2007	lparisi 07/19/2007	

FE Sent For: N/A

<END>

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	rryan 05/01/2007	wjackson 05/03/2007		_____			
/1			nmatzke 05/03/2007	_____	sbasford 05/03/2007		

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/?							
/P1	rryan 04/18/2007	wjackson 04/23/2007	pgreensl 04/23/2007	_____	cduerst 04/23/2007		

FE Sent For:

1 WLj 5/2 nwn
5/3 hwn/RS
5/3

<END>

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/?	rryan	PI WLj 4/19	1/23 PS	4/23 PS			

FE Sent For:

<END>

Hanaman, Cathlene

From: Hoey, Joseph
Sent: Monday, February 19, 2007 2:47 PM
To: Hanaman, Cathlene

Attachments: Tenn Law.pdf; Louisiana Law.pdf

Cathlene,

As I mentioned when we spoke on the phone, Representative Wasserman would like a bill drafted that penalizes individuals who use the plant *Salvia Divinorum* as a drug. He would like the bill modeled on the Tennessee law, but would like to include the Louisiana law's reference to "intended for human consumption." He was wondering if it would be possible to make the penalty a fine not to exceed \$10,000, but not punishable by imprisonment.

Let me know if you have any questions, or if you need additional information from me.

Thanks.

Joe

*Joseph P. Hoey
Office of State Rep. Sheldon Wasserman
P.O. Box 8953, Madison WI 53708-8953
(608) 266-7671 / 888-534-0022 (in-state only)
Joseph.Hoey@legis.state.wi.us*



Tenn Law.pdf (32 KB)



Louisiana Law.pdf (21 KB)

LRB-2031

CHAPTER NO. 700

SENATE BILL NO. 3247

By Burchett, Burks, Curtis S. Person, Jr., McNally, Finney

Substituted for: House Bill No. 2909

By Strader

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 17, Part 4, relative to certain hallucinogenic plants.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 17, Part 4, is amended by adding the following as a new section:

§ 39-17-452. *In Code at 39-17-438*

(a) It is an offense to knowingly produce, manufacture, distribute, possess or possess with intent to produce, manufacture, or distribute the active chemical ingredient in the hallucinogenic plant *Salvia divinorum* A.

(b) The provisions of this section shall not apply to the possession, planting, cultivation, growing, or harvesting of such hallucinogenic plant strictly for aesthetic, landscaping, or decorative purposes.

(c) The provisions of this section shall not apply to any dosage form which is legally obtainable from a retail establishment without a prescription and is recognized by the Federal Food and Drug Administration as a homeopathic drug.

(d) A violation of subsection (a) is a Class A misdemeanor.

Section 2. This act shall take effect July 1, 2006, the public welfare requiring it.

PASSED: May 11, 2006

John S. Wilder
JOHN S. WILDER
SPEAKER OF THE SENATE

Jimmy Naifeh
JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 19th day of May 2006

Phil Bredeesen
PHIL BREDESEN, GOVERNOR

LRB-2031

ENROLLED

ACT No. 159

Regular Session, 2005

HOUSE BILL NO. 20

BY REPRESENTATIVES STRAIN, SCHNEIDER, ARNOLD, BADON, BAUDOIN, CRAVINS, DANIEL, DARTEZ, DORSEY, DOVE, ERDEY, FANNIN, FAUCHEUX, FRITH, GREENE, HAMMETT, HEBERT, JACKSON, JOHNS, KLECKLEY, MCDONALD, ODINET, T. POWELL, QUEZAIRE, RITCHIE, SCALISE, SMILEY, JACK SMITH, ST. GERMAIN, THOMPSON, WADDELL, AND WHITE AND SENATOR SCHEDLER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To enact R.S. 40:989.1, relative to controlled dangerous substances; to create the crime of the unlawful production, manufacture, distribution, or possession of a material, compound, mixture, or preparation intended for human consumption which contains a hallucinogenic plant; to provide for definitions; to provide for penalties; to provide for exceptions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:989.1 is hereby enacted to read as follows:

§989.1. Unlawful production, manufacture, distribution, or possession of hallucinogenic plants

A.(1) It shall be unlawful for any person knowingly or intentionally to produce, manufacture, distribute, or possess with intent to produce, manufacture, or distribute a material, compound, mixture, or preparation intended for human consumption which contains a hallucinogenic plant.

(2) Whoever violates the provisions of this Subsection shall be sentenced to a term of imprisonment with or without hard labor for not less than two years nor more than ten years and may, in addition, be sentenced to pay a fine of not more than twenty thousand dollars.

B.(1) It shall be unlawful for any person knowingly or intentionally to possess a material, compound, mixture, or preparation intended for human consumption which contains a hallucinogenic plant.

1 (2) Any person who violates the provisions of this Subsection shall be
2 sentenced to a term of imprisonment with or without hard labor for not more than
3 five years and may, in addition, be sentenced to pay a fine of not more than five
4 thousand dollars.

5 C. For the purposes of this Section:

6 (1) "Distribute" means to sell, lease, rent, barter, trade, furnish, supply, or
7 otherwise transfer in exchange for anything of value a material, compound, mixture,
8 or preparation intended for human consumption which contains a hallucinogenic
9 plant.

10 (2) "Hallucinogenic plant" means any part or portion of any of the following:

11 (a) Brugmansia arborea.

12 (b) Amanita muscaria.

13 (c) Conocybe spp.

14 (d) Panaeolus spp.

15 (e) Psilocybe spp.

16 (f) Stropharia spp.

17 (g) Vinca rosea.

18 (h) Ipomoea violacea.

19 (i) Datura spp.

20 (j) Pancreatium trianthum.

21 (k) Kaempferia galanga.

22 (l) Olmedioperebea sclerophylla.

23 (m) Mesembryanthemum spp.

24 (n) Virola spp.

25 (o) Anadenanthera peregrina.

26 (p) Anadenanthera colubrina.

27 (q) Erythina spp.

28 (r) Genista canariensis.

29 (s) Mimosa hostilis.

30 (t) Rhynchosia spp.

- 1 (u) Sophora secundiflora.
- 2 (v) Peganum harmala.
- 3 (w) Banisteriopsis spp.
- 4 (x) Tetrapteris methystica.
- 5 (y) Heimia salicifolia.
- 6 (z) Tabernanthe iboga.
- 7 (aa) Prestonia amazonica.
- 8 (bb) Lagoehilus inebrians.
- 9 (cc) Rivea corymbosa.
- 10 (dd) Salvia divinorum.
- 11 (ee) Atropa belladonna.
- 12 (ff) Hyoscyamus niger.
- 13 (gg) Mandragora officinarum.
- 14 (hh) Brunfelsia spp.
- 15 (ii) Methysticodendron amesianum.
- 16 (jj) Latua pubiflora.
- 17 (kk) Calea Zacatechichi.
- 18 (ll) Physalis subglabrata.
- 19 (mm) Solanum carolinense.
- 20 (3) "Homeopathic drug" means any drug labeled as being homeopathic
- 21 which is listed in the Homeopathic Pharmacopeia of the United States, an addendum
- 22 to it, or its supplements. The potencies of homeopathic drugs are specified in terms
- 23 of dilution. Homeopathic drug products must contain diluents commonly used in
- 24 homeopathic pharmaceuticals. Drug products containing homeopathic ingredients in
- 25 combination with non-homeopathic active ingredients are not homeopathic drug
- 26 products.
- 27 (4) "Manufacture" means the production, preparation, propagation,
- 28 compounding, or processing of a material, compound, mixture, or preparation
- 29 intended for human consumption which contains a hallucinogenic plant either
- 30 directly or indirectly by extraction from substances of natural origin, or

1 independently by means of chemical synthesis, or by a combination of extraction and
 2 chemical synthesis. Manufacturer includes any person who packages, repackages,
 3 or labels any container holding a material, compound, mixture, or preparation
 4 intended for human consumption which contains a hallucinogenic plant.

5 (5) "Production" includes the manufacture, planting, cultivation, growing,
 6 or harvesting of a hallucinogenic plant.

7 D. The provisions of this Section shall not apply to the possession, planting,
 8 cultivation, growing, or harvesting of a hallucinogenic plant strictly for aesthetic,
 9 landscaping, or decorative purposes.

10 E. The provisions of this Section shall not apply to any dosage form which
 11 is legally obtainable from a retail establishment without a prescription and is
 12 recognized by the Federal Food and Drug Administration as a homeopathic drug.

 SPEAKER OF THE HOUSE OF REPRESENTATIVES

 PRESIDENT OF THE SENATE

 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-20312

RLR:.....

WLJ

PI

In 4/18/07

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RMK
D-N

Gen cat

1 AN ACT **relating to:** salvia divinorum and providing a penalty.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

2 SECTION 1. 961.41 (3m) of the statutes is created to read:

3 961.41 (3m) SALVIA DIVINORUM A. Except as provided in par. (b), whoever
4 manufactures, distributes, delivers, or possess^{es} the active chemical ingredient in the
5 plant salvia divinorum A with intent that it be consumed by an individual may be
6 fined not more than \$10,000.

7 (b) The prohibitions under par (a) do^{es} not apply to the manufacture,
8 distribution, delivery, or possession of any dosage form of the active chemical
9 ingredient in the plant salvia divinorum A that may be obtained from a retail

Paragraph

SECTION 1

STET
federal
STET

① establishment without a prescription and that is recognized by the U.S. Food and
2 Drug Administration as a homeopathic drug.

3 (END)

STET

D-N

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2031/P1dn

RLR: f/...

WLJ

Joe Hoey:

As requested, this bill is based on Tennessee law, with the added provision that the actor must intend that the drug be consumed by an individual.

I made the following changes to Tennessee law:

1. Since the bill requires intent that the drug be consumed by an individual, I did not include an exception for aesthetic, landscaping, or decorative purposes.
2. The Tennessee law prohibits both straight possession and possession with intent to produce, manufacture, or distribute. Since there is no distinction in penalty for the two forms of possession, this bill prohibits any possession with intent that the drug be consumed by an individual.
3. The Tennessee law provides an exception for any dosage form of salvia divinorum A that may be legally obtained from a retail establishment and that is recognized by the U.S. FDA as a homeopathic drug. The drug is only "legal" as a result of the exception, so I omitted the word "legally."

This bill, like the Tennessee law, does not include salvia divinorum A in the schedule of controlled substances. All other drugs that are the subject of prohibitions under ch. 961 are included in the schedule. As the bill is drafted, references in the statutes to "controlled substances" will not apply to salvia divinorum A. Do you want to include salvia divinorum A in the schedule and, if so, in what part?

This bill, like the Tennessee law, refers to the "active chemical ingredient in the plant salvia divinorum A." Elsewhere I have seen the plant referred to as "salvia divinorum" and the active compound as "salvinorum A." Should the plant name be "salvia divinorum" without the "A"?

Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2031/P1dn
RLR:wlj:pg

April 23, 2007

Joe Hoey:

As requested, this bill is based on Tennessee law, with the added provision that the actor must intend that the drug be consumed by an individual.

I made the following changes to Tennessee law:

1. Since the bill requires intent that the drug be consumed by an individual, I did not include an exception for aesthetic, landscaping, or decorative purposes.
2. The Tennessee law prohibits both straight possession and possession with intent to produce, manufacture, or distribute. Since there is no distinction in penalty for the two forms of possession, this bill prohibits any possession with intent that the drug be consumed by an individual.
3. The Tennessee law provides an exception for any dosage form of salvia divinorum A that may be *legally* obtained from a retail establishment and that is recognized by the U.S. FDA as a homeopathic drug. The drug is only "legal" as a result of the exception, so I omitted the word "legally."

This bill, like the Tennessee law, does not include salvia divinorum A in the schedule of controlled substances. All other drugs that are the subject of prohibitions under ch. 961 are included in the schedule. As the bill is drafted, references in the statutes to "controlled substances" will not apply to salvia divinorum A. Do you want to include salvia divinorum A in the schedule and, if so, in what part?

This bill, like the Tennessee law, refers to the "active chemical ingredient in the plant salvia divinorum A." Elsewhere I have seen the plant referred to as "salvia divinorum" and the active compound as "salvinorum A." Should the plant name be "salvia divinorum" without the "A"?

Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.wisconsin.gov

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

4/26/07

2031/P1

- just "Salvia divinorum" - no "A"
- don't prohibit straight possession
or poss. w/ intent
- move to ch. 941 - near 941.32



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-2031/PT 1

RLR:wlj:pg

↑
stays

In 5/1/07

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Other

RMNR

Regen Act

1 AN ACT *to create* 961.41 (3m) of the statutes; **relating to:** salvia divinorum and
2 providing a penalty.

INS 1-4V

Ins Analysis

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

Bold regular type

3 SECTION 1. 961.41 (3m) of the statutes is created to read:
4 961.41 (3m) SALVIA DIVINORUM A. (a) Except as provided in par. (b), whoever
5 manufactures, distributes, delivers, or possesses the active chemical ingredient in
6 the plant salvia divinorum A with intent that it be consumed by an individual may
7 be fined not more than \$10,000.

8 (b) Paragraph (a) does not apply to the manufacture, distribution, delivery, or
9 possession of any dosage form of the active chemical ingredient in the plant salvia
10 divinorum A that may be obtained from a retail establishment without a prescription

Bold (3) Subsection (2)

9/10/3/18

sub (3)

CF

for

1 and that is recognized by the U.S. Food and Drug Administration as a homeopathic
2 drug.

3 (END)

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2031/lins
RLR:.....

1 **Analysis:**

 This bill prohibits manufacturing, distributing, or delivering the active
chemical ingredient in the plant salvia divinorum (salvinorum A) with the intent
that it be consumed by a person. The bill makes an exception to this prohibition for
salvinorum A that is recognized by the U.S. Food and Drug Administration as a
homeopathic drug and that may be obtained from a retail store without a
prescription. The penalty for violating the prohibition is a fine not to exceed \$10,000.

2

3

4 **Ins 1-4:**

5 **(1)** In this section:

6 (a) "Deliver," with respect to a plant ingredient, has the same meaning given

7 in s. 961.01 (6) with respect to a controlled substance or controlled substance analog.

8 (b) "Distribute," with respect to a plant ingredient, has the same meaning given

9 in s. 961.01 (9) with respect to a controlled substance or controlled substance analog.

10 (c) "Manufacture," with respect to a plant ingredient, has the same meaning

11 given in s. 961.01 (13) with respect to a controlled substance or controlled substance

12 analog.

Parisi, Lori

From: Hoey, Joseph
Sent: Thursday, July 19, 2007 10:47 AM
To: LRB.Legal
Subject: Draft Review: LRB 07-2031/1 Topic: Salvia divinorum

Please Jacket LRB 07-2031/1 for the ASSEMBLY.

Corrected Copy

LRB-2031/1
RLR:wlj:nwn

2007 ASSEMBLY BILL 477

Added &
Re-Published
08-28-2007

August 7, 2007 - Introduced by Representatives WASSERMAN, CULLEN, TOWNSEND, SHERIDAN, A. OTT, HINES and BERCEAU, cosponsored by Senators LASSA, LEIBHAM and ROESSLER. Referred to Committee on Criminal Justice.

1 AN ACT *to create* 941.318 of the statutes; **relating to:** Salvia divinorum and
2 providing a penalty.

Analysis by the Legislative Reference Bureau

This bill prohibits manufacturing, distributing, or delivering the active chemical ingredient in the plant *Salvia divinorum* (salvinorum A) with the intent that it be consumed by a person. The bill makes an exception to this prohibition for salvinorum A that is recognized by the U.S. Food and Drug Administration as a homeopathic drug and that may be obtained from a retail store without a prescription. The penalty for violating the prohibition is a fine not to exceed \$10,000.

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

3 SECTION 1. 941.318 of the statutes is amended to read:

4 **941.318 Salvia divinorum.**

5 (a) "Deliver," with respect to a plant ingredient, has the same meaning given
6 in s. 961.01 (6) with respect to a controlled substance or controlled substance analog.

7 (b) "Distribute," with respect to a plant ingredient, has the same meaning given
8 in s. 961.01 (9) with respect to a controlled substance or controlled substance analog.

Mike - Please
print as
"Corrected Copy"
Thanks, Becky K.

in

in

Barman, Mike

From: Barman, Mike
Sent: Tuesday, August 28, 2007 8:08 AM
To: Martin, Dick; Fitch, Dan
Subject: "Corrected Copy" version of AB 477 published.

"Corrected Copy" version of AB 477 published.

Please call if you have any questions or problems.

Thanks,

Mike Barman (Senior Program Assistant)
State of Wisconsin - Legislative Reference Bureau
Legal Section - Front Office
1 East Main Street, Suite 200, Madison, WI 53703
(608) 266-3561 / mike.barman@legis.wisconsin.gov