

2001 DRAFTING REQUEST

Bill

Received: **05/07/2001**

Received By: **mdsida**

Wanted: **As time permits**

Identical to LRB:

For: **Scott Walker (608) 266-9180**

By/Representing: **himself**

This file may be shown to any legislator: **NO**

Drafter: **mdsida**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - drugs**

Extra Copies: **rlr**

Submit via email: **NO**

Requester's email:

Pre Topic:

No specific pre topic given

Topic:

Substances used to induce false negative drug tests

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>
/?	mdsida 05/09/2001	jdye 05/10/2001		_____			
	mdsida 05/10/2001			_____			
/1			kfollet 05/10/2001	_____	lrb_docadmin 05/10/2001	lrb_docadmin 05/29/2001	

FE
not
needed

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1/?	mdsida	1 5/10 jld	Kjld 5/10	Kjld/pg 5/10			

FE Sent For:

<END>

Nelson, Robert P.

From: Walker, Scott
Sent: Thursday, May 03, 2001 2:03 PM
To: Nelson, Robert P.
Cc: Gilbert, Melissa
Subject: AB 154 Assembly Bill - AMENDED
Importance: High

Bob,

I want to draft a bill similar to this for Wisconsin. We found products that clearly have no other purpose but to produce a falsely negative drug test result and want to put an end to their sale in our state. Thanks.

Scott Walker

BILL NUMBER: AB 154 AMENDED
BILL TEXT
AMENDED IN ASSEMBLY APRIL 26, 2001
AMENDED IN ASSEMBLY APRIL 16, 2001

INTRODUCED BY Assembly Member Runner
JANUARY 31, 2001

An act to add Section 132.1 to the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 154, as amended, Runner. Drug testing: manufacturing substance that produces false negative.

Existing law provides for drug testing, as specified.

This bill would provide that any person or entity who knowingly sells, markets, advertises, manufactures, compounds, converts, produces, derives, processes, or prepares any substance with the specific intent to produce a falsely negative drug test result is guilty of a misdemeanor. By creating a new crime, this bill would impose a state-mandated local program upon local governments.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 132.1 is added to the Penal Code, to read:

05/03/2001

penalty??
possession?
use
distrib?

5/7 - Missy
will check on
how to structure
penalties

132.1. Any person or entity who knowingly sells, markets, advertises, manufactures, compounds, converts, produces, derives, processes, or prepares any substance with the specific intent to produce a falsely negative drug test result is guilty of a misdemeanor. *Nothing in this section shall prohibit the sale, marketing, advertising, manufacturing, compounding, converting, producing, deriving, processing, or preparing of general detoxifying products.*

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Dsida, Michael

From: Gilbert, Melissa
Sent: Wednesday, May 09, 2001 2:26 PM
To: Dsida, Michael
Subject: RE: drug detox products

In both cases. Thanks.

-----Original Message-----

From: Dsida, Michael
Sent: Wednesday, May 09, 2001 2:23 PM
To: Gilbert, Melissa
Subject: RE: drug detox products

Do you want the prohibitions to apply only if the person is trying to avoid arrest, or should they also apply if the person is trying to avoid a positive test for drugs in other contexts (such as a work-related drug test)?

> -----Original Message-----

> **From:** Gilbert, Melissa
> **Sent:** Tuesday, May 08, 2001 8:58 AM
> **To:** Dsida, Michael
> **Subject:** drug detox products

>

> Hi Mike,

>

> I mentioned your penalty suggestions to Scott, and he agreed
> that the drug paraphernalia alignment might make sense. The
> web site to check out is www.herbalclean.com.

>

> Thanks,

> Missy

>

> **Melissa Gilbert**

> **Research Assistant**

> **Office of Rep. Scott Walker**

>



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-3254(2)

MGD: r.....

jld

1

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

by 5/14

gen

1 AN ACT ...; relating to: substances used to induce false negative drug tests and
2 providing a penalty. ✓

Analysis by the Legislative Reference Bureau

With certain limited exceptions, current law prohibits the possession, manufacture, distribution, and delivery of controlled substances. In addition, current law prohibits the possession, manufacture, and delivery of drug paraphernalia. Current law also permits, ~~and~~ and in certain circumstances requires, ~~and~~ the administration of a test for the use of controlled substances (a "drug test") for law enforcement purposes, in connection with certain government benefits programs, and for other purposes.

This bill prohibits a person from manufacturing, advertising, selling, delivering, or possessing with intent to advertise, sell, or deliver any product (a ~~masking agent~~) with the intent that it be used to produce a false negative drug test result. A person who violates this prohibition may be fined not more than \$1,000 or imprisoned for not more than 90 days or both. The bill also prohibits a person from using or possessing with intent to use a masking agent with the intent to produce a false negative drug test result. A person who violates this prohibition may be fined not more than \$500 or imprisoned for not more than 30 days or both.

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

1 SECTION 1. Subchapter VI (title) of chapter 961 [precedes 961.571] of the
2 statutes is amended to read:

3 CHAPTER 961

4 SUBCHAPTER VI

5 DRUG PARAPHERNALIA AND RELATED PROVISIONS

6 SECTION 2. 961.58^x of the statutes is created to read:

7 961.58 Masking agents. (1) (a) No person may manufacture, advertise, sell,
8 deliver or possess[✓] with intent to advertise, sell, or deliver any product with the intent
9 that it be used to produce a false negative result on a test for the use of a controlled
10 substance.

11 (b) A person who violates par. (a)[✓] may be fined not more than \$1,000 or
12 imprisoned for not more than 90 days or both.

13 (2) (a) No person may use or possess with intent to use any product described
14 in sub. (1)^(a) with the intent to produce a false negative result on a test for the use of
15 a controlled substance.

16 (b) A person who violates par. (a)[✓] may be fined not more than \$500 or
17 imprisoned for not more than 30 days or both.

18 (END)



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

May 10, 2001

MEMORANDUM

To: Representative Walker

From: Michael Dsida, Legislative Attorney

Re: LRB-3254/1 Substances used to induce false negative drug tests

RUSH

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-9867 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.