

2001 ASSEMBLY BILL 464

July 19, 2001 – Introduced by Representatives UNDERHEIM, KRAWCZYK, SUDER, PLALE, HAHN, PLOUFF, LIPPERT, RYBA, VRAKAS, OWENS, TOWNSEND, PETROWSKI, MUSSER, ALBERS, LADWIG, URBAN, D. MEYER, SYKORA, OLSEN, J. FITZGERALD, STONE and OTT, cosponsored by Senators ERPENBACH, ROESSLER, ROSENZWEIG, HUELSMAN, LAZICH, DARLING and SCHULTZ. Referred to Committee on Criminal Justice.

1 **AN ACT** *to renumber and amend* 961.41 (1) (im) and 961.41 (1m) (im); *to*
2 *amend* 961.41 (1) (b), 961.41 (1m) (b), 961.41 (2) (b), 961.41 (2) (cm) and 961.41
3 (3g) (f); and *to create* 961.14 (7) (p), 961.41 (1) (hm), 961.41 (1) (im) 1. to 6.,
4 961.41 (1m) (hm), 961.41 (1m) (im) 1. to 6. and 961.41 (2) (bm) of the statutes;
5 **relating to:** prohibitions related to certain controlled substances and
6 providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits manufacturing, distributing, delivering, processing with intent to manufacture, distribute, or deliver, or simply processing, many drugs, except that the prohibitions do not apply to certain people who are exempted by federal or state law. For some of these drugs, the penalties for manufacturing, distributing, delivering, or possessing with intent to manufacture, distribute, or deliver, are based on the amount of the drug involved, though the penalties for simple possession are not based on the amount.

This bill prohibits manufacturing, distributing, delivering, or possessing with intent to manufacture, distribute, or deliver, 4-methylthioamphetamine (4-MTA or flatliner), unless a person is exempted from the prohibition by federal or state law. The bill assigns the same penalties for unlawfully manufacturing, distributing, delivering, or possessing with intent to manufacture, distribute, or deliver, 4-MTA as are currently assigned to violations involving phencyclidine (PCP). The penalties

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range from a mandatory fine of \$1,000 to \$200,000 and the possibility of imprisonment for not more than seven years and six months for a violation involving three grams or less of the drug, to a mandatory fine of \$1,000 to \$500,000 and mandatory imprisonment for not less than ten years nor more than 45 years for a violation involving more than 400 grams of the drug. (Imprisonment consists of a term of incarceration and a term of extended supervision.)

The bill increases the penalties for unlawfully manufacturing, distributing, delivering, and possessing with intent to manufacture, distribute, or deliver, Gamma-hydroxybutyric acid (GHB), gamma-butyrolactone (GBL), 3,4-methylenedioxymethamphetamine (MDMA or ecstasy), 4-bromo-2,5-dimethoxy-beta-phenylethylamine (2-CB or nexus), ketamine, and flunitrazepam, marketed under the name rohypnol, to the penalty levels for PCP. The bill also increases the penalties for unlawfully manufacturing, distributing, delivering, and possessing with intent to manufacture, distribute, or deliver, counterfeit versions of PCP, lysergic acid diethylamide (LSD), methamphetamine, GHB, GBL, MDMA, 2-CB, 4-MTA, ketamine, and flunitrazepam to the same level as violations involving the genuine drugs.

The bill also increases the penalty for simple possession of MDMA from a fine of not more than \$500 or confinement in jail for not more than 30 days, or both, to a fine of not more than \$5,000 or imprisonment for not more than two years or both. The increased penalty for simple possession of MDMA is the same as the current penalty for simple possession of GHB, GBL, ketamine, or flunitrazepam.

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.** 961.14 (7) (p) of the statutes is created to read:

2 961.14 (7) (p) 4-methylthioamphetamine, commonly known as “4-MTA.”

3 **SECTION 2.** 961.41 (1) (b) of the statutes is amended to read:

4 961.41 (1) (b) Except as provided in pars. (cm) and (e) to ~~(h)~~ (hm), any other
5 controlled substance included in schedule I, II or III, or a controlled substance analog
6 of any other controlled substance included in schedule I or II, may be fined not more
7 than \$15,000 or imprisoned for not more than 7 years and 6 months or both.

8 **SECTION 3.** 961.41 (1) (hm) of the statutes is created to read:

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1 961.41 (1) (hm) Gamma-hydroxybutyric acid, gamma-butyrolactone,
2 3,4-methylenedioxymethamphetamine,
3 4-bromo-2,5-dimethoxy-beta-phenylethylamine, 4-methylthioamphetamine,
4 ketamine, or a controlled substance analog of gamma-hydroxybutyric acid,
5 gamma-butyrolactone, 3,4-methylenedioxymethamphetamine,
6 4-bromo-2,5-dimethoxy-beta-phenylethylamine, or 4-methylthioamphetamine is
7 subject to the following penalties if the amount manufactured, distributed, or
8 delivered is:

9 1. Three grams or less, the person shall be fined not less than \$1,000 nor more
10 than \$200,000 and may be imprisoned for not more than 7 years and 6 months.

11 2. More than 3 grams but not more than 10 grams, the person shall be fined
12 not less than \$1,000 nor more than \$250,000 and shall be imprisoned for not less than
13 6 months nor more than 7 years and 6 months.

14 3. More than 10 grams but not more than 50 grams, the person shall be fined
15 not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than
16 one year nor more than 22 years and 6 months.

17 4. More than 50 grams but not more than 200 grams, the person shall be fined
18 not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than
19 3 years nor more than 22 years and 6 months.

20 5. More than 200 grams but not more than 400 grams, the person shall be fined
21 not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than
22 5 years nor more than 22 years and 6 months.

23 6. More than 400 grams, the person shall be fined not less than \$1,000 nor more
24 than \$500,000 and shall be imprisoned for not less than 10 years nor more than 45
25 years.

ASSEMBLY BILL 464**SECTION 4**

1 **SECTION 4.** 961.41 (1) (im) of the statutes is renumbered 961.41 (1) (im) (intro.)
2 and amended to read:

3 961.41 (1) (im) (intro.) Flunitrazepam, ~~may be fined not more than \$15,000 or~~
4 ~~imprisoned for not more than 7 years and 6 months or both.~~ is subject to the following
5 penalties if the amount manufactured, distributed, or delivered is:

6 **SECTION 5.** 961.41 (1) (im) 1. to 6. of the statutes are created to read:

7 961.41 (1) (im) 1. Three grams or less, the person shall be fined not less than
8 \$1,000 nor more than \$200,000 and may be imprisoned for not more than 7 years and
9 6 months.

10 2. More than 3 grams but not more than 10 grams, the person shall be fined
11 not less than \$1,000 nor more than \$250,000 and shall be imprisoned for not less than
12 6 months nor more than 7 years and 6 months.

13 3. More than 10 grams but not more than 50 grams, the person shall be fined
14 not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than
15 one year nor more than 22 years and 6 months.

16 4. More than 50 grams but not more than 200 grams, the person shall be fined
17 not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than
18 3 years nor more than 22 years and 6 months.

19 5. More than 200 grams but not more than 400 grams, the person shall be fined
20 not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than
21 5 years nor more than 22 years and 6 months.

22 6. More than 400 grams, the person shall be fined not less than \$1,000 nor more
23 than \$500,000 and shall be imprisoned for not less than 10 years nor more than 45
24 years.

25 **SECTION 6.** 961.41 (1m) (b) of the statutes is amended to read:

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1 961.41 **(1m)** (b) Except as provided in pars. (cm) and (e) to ~~(h)~~ (hm), any other
2 controlled substance included in schedule I, II or III, or a controlled substance analog
3 of any other controlled substance included in schedule I or II, may be fined not more
4 than \$15,000 or imprisoned for not more than 7 years and 6 months or both.

5 **SECTION 7.** 961.41 (1m) (hm) of the statutes is created to read:

6 961.41 **(1m)** (hm) Gamma-hydroxybutyric acid, gamma-butyrolactone,
7 3,4-methylenedioxyamphetamine
8 4-bromo-2,5-dimethoxy-beta-phenylethylamine, 4-methylthioamphetamine,
9 ketamine, or a controlled substance analog of gamma-hydroxybutyric acid,
10 gamma-butyrolactone, 3,4-methylenedioxyamphetamine
11 4-bromo-2,5-dimethoxy-beta-phenylethylamine, or 4-methylthioamphetamine is
12 subject to the following penalties if the amount possessed, with intent to
13 manufacture, distribute, or deliver is :

14 1. Three grams or less, the person shall be fined not less than \$1,000 nor more
15 than \$200,000 and may be imprisoned for not more than 7 years and 6 months.

16 2. More than 3 grams but not more than 10 grams, the person shall be fined
17 not less than \$1,000 nor more than \$250,000 and shall be imprisoned for not less than
18 6 months nor more than 7 years and 6 months.

19 3. More than 10 grams but not more than 50 grams, the person shall be fined
20 not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than
21 one year nor more than 22 years and 6 months.

22 4. More than 50 grams but not more than 200 grams, the person shall be fined
23 not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than
24 3 years nor more than 22 years and 6 months.

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1 5. More than 200 grams but not more than 400 grams, the person shall be fined
2 not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than
3 5 years nor more than 22 years and 6 months.

4 6. More than 400 grams, the person shall be fined not less than \$1,000 nor more
5 than \$500,000 and shall be imprisoned for not less than 10 years nor more than 45
6 years.

7 **SECTION 8.** 961.41 (1m) (im) of the statutes is renumbered 961.41 (1m) (im)
8 (intro.) and amended to read:

9 961.41 **(1m)** (im) (intro.) Flunitrazepam, ~~may be fined not more than \$15,000~~
10 ~~or imprisoned for not more than 7 years and 6 months or both.~~ is subject to the
11 following penalties if the amount possessed, with intent to manufacture, distribute,
12 or deliver, is:

13 **SECTION 9.** 961.41 (1m) (im) 1. to 6. of the statutes are created to read:

14 961.41 **(1m)** (im) 1. Three grams or less, the person shall be fined not less than
15 \$1,000 nor more than \$200,000 and may be imprisoned for not more than 7 years and
16 6 months.

17 2. More than 3 grams but not more than 10 grams, the person shall be fined
18 not less than \$1,000 nor more than \$250,000 and shall be imprisoned for not less than
19 6 months nor more than 7 years and 6 months.

20 3. More than 10 grams but not more than 50 grams, the person shall be fined
21 not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than
22 one year nor more than 22 years and 6 months.

23 4. More than 50 grams but not more than 200 grams, the person shall be fined
24 not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than
25 3 years nor more than 22 years and 6 months.

