

2001 DRAFTING REQUEST

Bill

Received: 03/27/2001

Received By: rryan

Wanted: As time permits

Identical to LRB:

For: Gregg Underheim (608) 266-2254

By/Representing: Sandy

This file may be shown to any legislator: NO

Drafter: rryan

May Contact:

Addl. Drafters:

Subject: Criminal Law - drugs

Extra Copies: MGD

Submit via email: NO

Requester's email:

Pre Topic:

No specific pre topic given

Topic:

penalties for club drugs

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>
/1	rryan 04/05/2001	gilfokm 04/06/2001	martykr 04/09/2001	_____	lrb_docadmin 04/09/2001	lrb_docadminS&L 05/08/2001	

FE Sent For:

Lat intro

<END>

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1?	rryan	1-4/king 1-5-01	km 4/9	km 4/9			

FE Sent For:

<END>

3/27

Sandy,
Underheim's office

budget - Club drugs

make a stand alone bill

except - modify penalty for
simple possession of Ecstasy (MDMA)
so it is in line w/ penalty for
simple possession of AHB - 2 yrs.



State of Wisconsin
2001 - 2002 LEGISLATURE

2956/1

LRB-~~9001/1~~
RLR-~~(100) km~~
CST

In 4/5/01

DOA:..... Statz - Club drugs

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

Gen. Cat.

prohibitions related to certain controlled substances and providing a penalty.

1 AN ACT, relating to: ~~the budget~~

Analysis by the Legislative Reference Bureau

~~CRIMES~~

or simply possessing

Current law prohibits manufacturing, distributing, delivering, or possessing with intent to manufacture, distribute, or deliver, many drugs, except that the prohibitions do not apply to certain people who are exempted by federal or state law. The penalty for some drug law violations is based on the amount of a drug that a person manufactures, distributes, delivers, or possesses with intent to manufacture, distribute, or deliver.

Insert 1

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 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.

Insert 2

The bill increases the penalties for unlawfully manufacturing, distributing, delivering, and possessing with intent to manufacture, distribute, or deliver,

MDMA
- 2 -
comma

MDMA, 2-CB, 4-MTA

lowercase

Gamma-hydroxybutyric acid (GHB), gamma-butyrolactone (GBL), 3,4-methylenedioxyamphetamine (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, ~~ecstasy, Nexus, MTA,~~ ketamine, and flunitrazepam to the same level as violations involving the genuine drugs.

Insert 3

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:

9 961.41 (1) (hm) Gamma-hydroxybutyric acid, gamma-butyrolactone,
10 3,4-methylenedioxyamphetamine,

11 4-bromo-2,5-dimethoxy-beta-phenylethylamine, 4-methylthioamphetamine,
12 ketamine, or a controlled substance analog of gamma-hydroxybutyric acid,

13 gamma-butyrolactone, 3,4-methylenedioxyamphetamine,

14 4-bromo-2,5-dimethoxy-beta-phenylethylamine, or 4-methylthioamphetamine is

15 subject to the following penalties if the amount manufactured, distributed, or

16 delivered is:

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

3 2. More than 3 grams but not more than 10 grams, the person shall be fined
4 not less than \$1,000 nor more than \$250,000 and shall be imprisoned for not less than
5 6 months nor more than 7 years and 6 months.

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

9 4. More than 50 grams but not more than 200 grams, the person shall be fined
10 not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than
11 3 years nor more than 22 years and 6 months.

12 5. More than 200 grams but not more than 400 grams, the person shall be fined
13 not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than
14 5 years nor more than 22 years and 6 months.

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

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

20 961.41 (1) (im) (intro.) ~~Flunitrazepam, may be fined not more than \$15,000 or~~
21 ~~imprisoned for not more than 7 years and 6 months or both.~~ is subject to the following
22 penalties if the amount manufactured, distributed, or delivered is:

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

1 961.41 (1) (im) 1. Three grams or less, the person shall be fined not less than
2 \$1,000 nor more than \$200,000 and may be imprisoned for not more than 7 years and
3 6 months.

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

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

10 4. More than 50 grams but not more than 200 grams, the person shall be fined
11 not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than
12 3 years nor more than 22 years and 6 months.

13 5. More than 200 grams but not more than 400 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 5 years nor more than 22 years and 6 months.

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

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

20 961.41 (1m) (b) Except as provided in pars. (cm) and (e) to ~~(h)~~ (hm), any other
21 controlled substance included in schedule I, II or III, or a controlled substance analog
22 of any other controlled substance included in schedule I or II, may be fined not more
23 than \$15,000 or imprisoned for not more than 7 years and 6 months or both.

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

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

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.

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

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

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

8 961.41 (1m) (im) 1. Three grams or less, the person shall be fined not less than
9 \$1,000 nor more than \$200,000 and may be imprisoned for not more than 7 years and
10 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.

1 SECTION 10. 961.41 (2) (b) of the statutes is amended to read:

2 961.41 (2) (b) Any other Except as provided in pars. (a) and (bm), any
3 counterfeit substance included in schedule I, II or III, may be fined not more than
4 \$15,000 or imprisoned for not more than 7 years and 6 months or both.

5 SECTION 11. 961.41 (2) (bm) of the statutes is created to read:

6 961.41 (2) (bm) A counterfeit substance that is a counterfeit of phencyclidine,
7 methamphetamine, lysergic acid diethylamide, gamma-hydroxybutyric acid,
8 gamma-butyrolactone, 3,4-methylenedioxymethamphetamine
9 4-bromo-2,5-dimethoxy-beta-phenylethylamine, 4-methylthioamphetamine, or
10 ketamine is punishable by the applicable fine and imprisonment for manufacture,
11 distribution, delivery, or possession with intent to manufacture, distribute, or
12 deliver, of the genuine controlled substance under sub. (1) or (1m).

13 SECTION 12. 961.41 (2) (cm) of the statutes is amended to read:

14 961.41 (2) (cm) A counterfeit substance which is flunitrazepam, ~~may be fined~~
15 ~~not more than \$15,000 or imprisoned for not more than 7 years and 6 months or both~~
16 is punishable by the applicable fine and imprisonment for manufacture,
17 distribution, delivery, or possession with intent to manufacture, distribute, or
18 deliver, of the genuine controlled substance under sub. (1) or (1m).

19 **INSERT 7-18** →
(END)

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2956/lins
RLR:.....

1

Insert 1:

~~no #~~ 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.

Insert 2:

~~no #~~ (Imprisonment consists of a term of incarceration and a term of extended supervision.)

Insert 3:

The bill also increases the penalty for simple possession of MDMA from a fine of not more than \$500, confinement in jail, not to exceed 30 days, or both, to a fine of not more than \$5,000, imprisonment, not to exceed 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.

Handwritten annotations:
- "or" circled above the first "or both" in the text.
- "for" written above the second "or both".
- "for" written above the second "or both".
- "more than" written above the second "or both".
- "or" circled below the first "or both".
- "more than" written below the first "or both".

2

3

Insert at 7 after 18: 7-18

4

SECTION 1. 961.41 (3g) (f) of the statutes is amended to read:

5

961.41 (3g) (f) If a person possesses or attempts to possess

6

gamma-hydroxybutyric acid, gamma-butyrolactone,

7

3,4-methylenedioxymethamphetamine, ketamine, or flunitrazepam, the person

8

may be fined not more than \$5,000 or imprisoned for not more than 2 years or both.

9

History: 1971 c. 219, 307; 1973 c. 12; 1981 c. 90, 314; 1985 a. 328; 1987 a. 339, 403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283; 1999 a. 21, 32, 48, 57.



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

April 9, 2001

MEMORANDUM

To: Representative Underheim

From: Robin L. Ryan, Legislative Attorney

Re: LRB-2956/1 penalties for club drugs

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) 261-6927 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.

Barman, Mike

From: Barman, Mike
Sent: Tuesday, May 08, 2001 5:07 PM
To: Rep.Underheim
Subject: LRB-2956/1 (attached) (requested by Sandy)

Mike Barman

Mike Barman - Senior Program Asst. (PH. 608-266-3561)
(E-Mail: mike.barman@legis.state.wi.us) (FAX: 608-264-6948)

State of Wisconsin
Legislative Reference Bureau - Legal Section - Front Office
100 N. Hamilton Street - 5th Floor
Madison, WI 53703

05/08/2001