

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 5 March 2002

BILL NO. AB 464

SUBJECT _____

R. Martin Smith

(NAME)

6442 Dylva Drive

(Street Address or Route Number)

Mason, WI 53719

(City and Zip Code)

WIS. DOJ - Crime Labs

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Provide written testimony

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 3-5-02

BILL NO. AB 464

SUBJECT _____

Senator Jan Sirenbeck

(NAME)

(Street Address or Route Number)

(City and Zip Code)

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 3-5-02

BILL NO. AB 464

SUBJECT Controlled Substances

Sara E. Wolf

(NAME)

1500 Square Lake Tr.

(Street Address or Route Number)

(City and Zip Code)

Orphan Medical

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 3-5-02

BILL NO. AB 464

OR

SUBJECT _____

George Claver
(NAME)

N 3731 Hwy A
(Street Address or Route Number)

Palau bus WI 53925
(City and Zip Code)

(Representing) _____

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O.Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 3-5-02

BILL NO. _____

OR

SUBJECT AB 464

Rep. Underhorm
(NAME)

(Street Address or Route Number)

54th Assembly
(City and Zip Code)

(Representing) _____

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O.Box 7882
Madison, WI 53707-7882

**Senate Committee on Judiciary, Consumer Affairs and Campaign
Finance Reform**

Request for Paper Ballot Executive Action on 2001 Assembly Bill 464

The Senate Committee on Judiciary, Consumer Affairs and Campaign Finance Reform was unable to hold an Executive Session on Assembly Bill 464 as planned. We would like to conduct a paper ballot on the bill. **Please return your ballot to Sen. George's office (Room 118 South) by 5:00 PM Thursday, March 7, 2002.**

Introduction and Adoption of Senate Amendment (LRB a1323/1):

- _____ Moved (Optional -- Please check if you wish to Move Introduction and Adoption of the Amendment)
- _____ Seconded (Optional -- Please check if you wish to Second Introduction and Adoption of the Amendment)
- _____ **Aye** (In Favor of Adoption of the Amendment)
- _____ **No** (Oppose Adoption of the Amendment)

Concurrence in Assembly Bill 464 As Amended:

- _____ Moved (Optional -- Please check if you wish to Move Concurrence in the Bill as Amended)
- _____ Seconded (Optional -- Please check if you wish to Second Concurrence in the Bill as Amended)
- X **Aye** (In Favor of Concurrence in the Bill as Amended)
- _____ **No** (Oppose Concurrence in the Bill as Amended)

Signed: *Gayle George* March 7, 2002

Please return to Sen. George's Office by 5:00 PM, Thursday, March 7, 2002.

**Senate Committee on Judiciary, Consumer Affairs and Campaign
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Introduction and Adoption of Senate Amendment (LRB a1323/1):

_____ Moved (Optional -- Please check if you wish to Move Introduction and Adoption of the Amendment)

_____ Seconded (Optional -- Please check if you wish to Second Introduction and Adoption of the Amendment)

Aye (In Favor of Adoption of the Amendment)

_____ No (Oppose Adoption of the Amendment)

Concurrence in Assembly Bill 464 As Amended:

_____ Moved (Optional -- Please check if you wish to Move Concurrence in the Bill as Amended)

_____ Seconded (Optional -- Please check if you wish to Second Concurrence in the Bill as Amended)

Aye (In Favor of Concurrence in the Bill as Amended)

_____ No (Oppose Concurrence in the Bill as Amended)

Signed: _____

Scott Fitzgerald

Friday, March 8, 2002

Please return to Sen. George's Office by 5:00 PM, Friday, March 8, 2002.

**Senate Committee on Judiciary, Consumer Affairs and Campaign
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Introduction and Adoption of Senate Amendment (LRB a1323/1):

 X Moved (Optional -- Please check if you wish to Move Introduction and Adoption of the Amendment)

 X Seconded (Optional -- Please check if you wish to Second Introduction and Adoption of the Amendment)

 X Aye (In Favor of Adoption of the Amendment)

 No (Oppose Adoption of the Amendment)

Concurrence in Assembly Bill 464 As Amended:

 X Moved (Optional -- Please check if you wish to Move Concurrence in the Bill as Amended)

 X Seconded (Optional -- Please check if you wish to Second Concurrence in the Bill as Amended)

 X Aye (In Favor of Concurrence in the Bill as Amended)

 No (Oppose Concurrence in the Bill as Amended)

Signed: Joanni Heelsman
By PR via phone

Friday, March 8, 2002

Please return to Sen. George's Office by 5:00 PM, Friday, March 8, 2002.

**Senate Committee on Judiciary, Consumer Affairs and Campaign
Finance Reform**

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- _____ Moved (Optional -- Please check if you wish to Move Introduction and Adoption of the Amendment)
- _____ Seconded (Optional -- Please check if you wish to Second Introduction and Adoption of the Amendment)
- Aye (In Favor of Adoption of the Amendment)
- _____ No (Oppose Adoption of the Amendment)

Concurrence in Assembly Bill 464 As Amended:

- _____ Moved (Optional -- Please check if you wish to Move Concurrence in the Bill as Amended)
- _____ Seconded (Optional -- Please check if you wish to Second Concurrence in the Bill as Amended)
- Aye (In Favor of Concurrence in the Bill as Amended)
- _____ No (Oppose Concurrence in the Bill as Amended)

Signed: Robert W. Ulrich

Friday, March 8, 2002

Please return to Sen. George's Office by 5:00 PM, Friday, March 8, 2002.

**Senate Committee on Judiciary, Consumer Affairs and Campaign
Finance Reform**

Request for Paper Ballot Executive Action on 2001 Assembly Bill 464

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Introduction and Adoption of Senate Amendment (LRB a1323/1):

- _____ Moved (Optional -- Please check if you wish to Move Introduction and Adoption of the Amendment)
- _____ Seconded (Optional -- Please check if you wish to Second Introduction and Adoption of the Amendment)
- Aye (In Favor of Adoption of the Amendment)
- _____ No (Oppose Adoption of the Amendment)

Concurrence in Assembly Bill 464 As Amended:

- _____ Moved (Optional -- Please check if you wish to Move Concurrence in the Bill as Amended)
- _____ Seconded (Optional -- Please check if you wish to Second Concurrence in the Bill as Amended)
- Aye (In Favor of Concurrence in the Bill as Amended)
- _____ No (Oppose Concurrence in the Bill as Amended)

Signed: Fred Russo Friday, March 8, 2002
ce

Please return to Sen. George's Office by 5:00 PM, Friday, March 8, 2002.

STATE OF WISCONSIN



**Statement of the
WI Controlled Substances Board
before the
Senate Committee on Judiciary, Consumer Affairs,
And Campaign Finance Reform
Senator Gary George, Chair**

**Statement of Cynthia Benning, RPh, Chair,
Controlled Substances Board on
Assembly Bill 464 relating to prohibitions related to
certain controlled substances and providing a penalty.**

**411 South, State Capitol
Tuesday, March 5, 2002, 11:00 A.M.**

Chairman George and members of the committee:

Thank you for this opportunity to provide written testimony on the proposed revisions to AB 464 exempting industrial uses for GBL and legitimate medical uses for GBH. I regret I am unable to attend today's hearing, but prior commitments at the hospital prevent it. I am Cindy Benning, RPh the current Chairperson of the Controlled Substances Board and the Pharmacy Examining Board's representative to that board.

The Controlled Substances Board has been examining the prevention of illicit use of GBL and GHB but at the same time providing for their legitimate uses. Both substances have potential for harm to the public.

At its last board meeting the CSB reviewed various examples of draft language which are reflected in the current proposed amendment. Accordingly, the CSB indicated its support for the legislature providing some means to exempt the legitimate industrial uses of GBL and the legitimate medical uses for GHB.

The proposed amendment allows for the industrial use of GBL, which is necessary for several applications by Wisconsin based companies, but puts it into schedule I "when intended for human consumption". This will allow law enforcement to better enforce the penalties for illicit use, but allow for GBL's legitimate industrial use without jeopardizing Wisconsin businesses.

In addition, the proposed amendment adds 1,4-Butanediol, "when intended for human consumption", into schedule I because it cannot be technically covered under the Wisconsin analog law.

Finally, the proposed amendment follows Federal law in that it co-schedules GHB into schedule I and schedule III. The schedule III product is a soon to be released, FDA approved medication for narcolepsy that will benefit many residents of the state of Wisconsin. Without this change, consumers who possess this FDA approved drug in Wisconsin would be in violation of the law because it is currently only listed as a schedule I in Wisconsin.

Thank you for your consideration.

Cindy Benning RPh
Chairperson of the Wisconsin Controlled Substances Board



OFFICE OF THE DISTRICT ATTORNEY

Joseph J. Klumb
District Attorney

Allen R. Brey
Assistant District Attorney

Brian S. Asmus
Assistant District Attorney

February 21, 2002

COPY

Senator Gary George
Chair of the Judiciary, Consumer Affairs
and Campaign Finance Reform Committee
State Senate
State of Wisconsin
P.O. Box 7882
Madison, WI 53707-7882

RE: AB 464

Dear Senator George:

I am writing to urge that you support AB 464 and its amendments, and that you place them before the Judiciary, Consumer Affairs and Campaign Finance Reform Committee for a hearing.

Last spring a young lady in our jurisdiction died after consuming 1,4-Butanediol (commonly known as 1,4-BD). The consumption occurred in a recreational setting and the substance was provided to her by another individual. I believe that if 1,4-BD were a prohibited substance under Chapter 961, I would be able to prosecute that case under our version of the Len Bias statute. Unfortunately, that substance is not currently a prohibited substance. AB 464 and the proffered amendments would close this loophole in the law.

Our statutes prohibit the possession and/or consumption of analogs of certain substances. Among them are Gamma-hydroxybutyric acid (commonly known as GHB) a date rape drug. In attempting to learn what 1,4-BD is, I spoke extensively with members of our State Crime Laboratories. They were unable to state an opinion whether or not 1,4-BD is an analog of GHB. I did learn that if a person consumes 1,4-BD, the human body processes it and GHB is a by-product. I also learned that the affects of the GHB in 1,4-BD are the same as if GHB had originally been consumed.



Senator Gary George
February 21, 2002
Page Two

I believe that the proffered Bill and amendments will close an important loophole in the current statutory scheme. I have located an expert in the metropolitan St. Louis, Missouri area who advises me that there have been several deaths in that region due to the consumption of 1,4-BD. I am in the process of engaging him as an expert so that I may attempt a prosecution concerning the death of the young lady in our jurisdiction. If AB 464 and the proffered amendments had been law at the time of the young lady's death, I would already be prosecuting her case.

I am willing to speak with you, your staff members, or other interested legislators concerning the need to prohibit the possession and distribution of 1,4-BD when intended for human consumption. Please feel free to contact me concerning this matter.

Sincerely yours,


Allen R. Brey
Assistant District Attorney

ARB/mp

cc: Senator Scott Fitzgerald
Senator Joanne Huelsman
Senator Fred Risser
Senator Robert Wirch

bcc: Ms. Sara Wolff



**Testimony for the Judiciary, Consumer Affairs
and Campaign Finance Reform Committee**

Tuesday, March 5, 2002

11:00 am • Room 411 South

Good Morning Chairperson George and Members of the Committee:

My name is Sara Wolff and I am a Policy Analyst to Orphan Medical, a small pharmaceutical company in Minneapolis dedicated to developing medicines for people who suffer from rare diseases. I submit this testimony in support of AB464 and the amendment offered by the Controlled Substances Board.

We have been working with the federal government and states around the country to appropriately control the various forms of gamma hydroxybutyrate, or GHB. Unlike other legal or illegal drugs, GHB comes in several forms:

- **An easily-made, homebrewed concoction** used by body builders as a muscle enhancer, rave party-goers as a euphoric when mixed with alcohol, and by sexual predators to facilitate sexual assault. Wisconsin appropriately lists this form of GHB in Schedule I.
- **Commonly used industrial chemicals** that when consumed naturally turn into GHB in the body. The most common examples are gamma butyrolactone (GBL — a substance currently controlled by Wisconsin law) and 1,4 butanediol (1,4 BD — a substance *not* currently controlled by Wisconsin law), which are produced in millions of pounds each year for legitimate industrial use. Law enforcement officials in Florida, Texas, California, Arkansas and other states report that these GHB substitutes have largely replaced the use of homemade GHB.
- **A promising, FDA-sanctioned investigational new drug** for the treatment of cataplexy, a disabling symptom of the rare disease, narcolepsy. This medical form of GHB is being developed by Orphan Medical. FDA action is anticipated next month.

In 1998, Wisconsin was ahead of most of the country when it recognized the danger to public health posed by the recreational use of GHB and GBL by listing the substances in Schedule I.

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However, the legislature did not realize at the time that placing GBL in schedule I would create problems for Wisconsin industries that commonly use GBL as a degreaser and solvent in the processing of plastics, cosmetics, and computer equipment.

Meanwhile, law enforcement and crime labs in Wisconsin report increases in the abuse of 1,4 BD, another GHB substitute that, like GBL, is a chemical legitimately used by industry, but unlike GBL, goes uncontrolled in Wisconsin. Prosecutors do not have the necessary tools to deal with those who abuse 1,4 BD for its GHB effects.

The amendment offered by the Controlled Substances Board places both GBL and 1,4 BD in Schedule I, "when intended for human consumption," thereby protecting legitimate industrial use while giving law enforcement tools to appropriately combat illicit use of these substances. This approach has been adopted by states including Maine, New Mexico and Oklahoma.

In addition, the amendment places an FDA approved medical formulation of GHB in Schedule III, allowing an estimated 1,700 Wisconsin residents with narcolepsy access to life-changing medication. All other forms of GHB including the homebrewed and the industrial chemicals remain in Schedule I. This split-schedule model was adopted by the federal government in 2000 with the enactment of the Hillary Farias and Samantha Reid Date Rape Prohibition Act. Wisconsin law ensures that illicit use of Schedule I or Schedule III GHB receives the same penalties.

We believe this bill and amendment is a win-win solution: for rape-crisis advocates, industry, law enforcement, prosecutors and narcolepsy patients — everyone except drug dealers.

We urge you to support passage of AB464 and the amendment. Thank you for your time.



Sara E. Wolff
Policy Analyst
to Orphan Medical
888-738-2332, ext. 1801
wolff@collemcvoy.com

Testimony of
R. Martin Smith, Ph.D.
Wisconsin Department of Justice
Crime Laboratories

Providing information on A.B. 464
5 March, 2002

The language in Chapter 961.14 that currently controls the use and distribution of gamma-hydroxybutyric acid ("GHB") and gamma-butyrolactone ("GBL") does not address several issues. These issues are addressed in the changes to s. 961.14(5) that are proposed in A.B. 464.

- First, "GBL" is a widely used industrial solvent. It is not a federal controlled substance, but is instead a "List I chemical." This means that industrial producers and distributors of this substance need only register the production and distribution of "GBL" with the federal Drug Enforcement Administration (DEA) in order to meet federal requirements. Under the current language, industrial producers and distributors in Wisconsin must apply for a separate license in order to produce and distribute "GBL" for legitimate purposes. The new language would limit illicit possession and distribution to situations in which the "GBL" is "intended for human consumption."
- "GBL" is converted to "GHB" in the body, and thereby acts as a biochemical "precursor" to "GHB." Another substance that is similarly converted to "GHB" in the body is 1,4-butanediol ("1,4-BD"). The Wisconsin Crime Laboratories, as well as other forensic laboratories around the country, have seen an increase in cases in which "1,4-BD" was administered in order to produce the same effect as "GHB." "1,4-BD" therefore appears to pose the same dangers for abuse and human consumption as "GHB."
- Like "GBL," "1,4-BD" is also an industrial solvent that is produced and distributed in large quantities. Therefore language that limits illicit possession and distribution to situations in which it is "intended for human consumption" seems desirable.
- At this time there are no other known chemicals that can be ingested and converted by the body into "GHB." However, a number of substances can be envisioned that might fall into this category. Since these chemicals may or may not fall under the "analog" portion of Chapter 961 (which allows prosecution of a chemical analog of a Schedule I or II substance to begin as if it were a Schedule I controlled substance), language has been added to the entry for "GHB" to include unspecified substances that could be "metabolically converted to GHB."