



2005 ASSEMBLY BILL 214

March 16, 2005 - Introduced by Representatives BIES, FRISKE, ALBERS, AINSWORTH, HINES, HUNDERTMARK, KERKMAN, KRAWCZYK, MOLEPSKE, MONTGOMERY, MUSSER, OWENS, OTT, PRIDEMORE, SHERIDAN, VAN ROY, VOS and LOEFFELHOLZ, cosponsored by Senators A. LASEE, DARLING, LASSA, LAZICH and ROESSLER. Referred to Committee on Criminal Justice and Homeland Security.

1 **AN ACT** *to create* 941.316 of the statutes; **relating to:** abuse of hazardous
2 substances and providing penalties.

Analysis by the Legislative Reference Bureau

This bill prohibits a person from abusing, or possessing with the intent to abuse, a hazardous substance. The bill defines "abuse" as the use of a hazardous substance with the intent to induce intoxication or elation, to stupefy the central nervous system, or to change the human audio, visual, or mental processes. A person who violates this prohibition is subject to a fine not to exceed \$10,000 or imprisonment not to exceed nine months, or both. The prohibition does not apply to the possession or use of a hazardous substance that is obtained from a practitioner while acting in the course of professional practice.

The bill also prohibits a person from distributing, or possessing with the intent to distribute, a hazardous substance if the person knows or should know that the hazardous substance will be abused. A person who violates this prohibition is subject to a fine not to exceed \$10,000 or imprisonment not to exceed three years and six months, or both. The prohibition on distribution does not apply to a person who distributes hazardous substances in an ordinary course of business.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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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.** 941.316 of the statutes is created to read:

2 **941.316 Abuse of hazardous substance. (1)** In this section:

3 (a) “Abuse” means to ingest, inhale, or otherwise introduce into the human
4 body a hazardous substance in a manner that does not comply with any cautionary
5 labeling that is required for the hazardous substance under s. 100.37 or under
6 federal law, or in a manner that is not intended by the manufacturer of the hazardous
7 substance, and that is intended to induce intoxication or elation, to stupefy the
8 central nervous system, or to change the human audio, visual, or mental processes.

9 (b) “Distribute” means to transfer a hazardous substance from one person to
10 another.

11 (c) “Hazardous substance” has the meaning given in s. 100.37 (1) (c) and
12 includes any substance or mixture of substances that has the capacity to produce
13 personal injury or illness to a person who abuses the substance.

14 **(2)** Whoever does any of the following is guilty of a Class A misdemeanor:

15 (a) Possesses a hazardous substance with the intent to abuse the hazardous
16 substance.

17 (b) Intentionally abuses a hazardous substance.

18 **(3)** Whoever distributes, or possesses with intent to distribute, a hazardous
19 substance, knowing or having reason to know that the hazardous substance will be
20 abused, is guilty of a Class I felony.

