

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 726 (as enrolled)
Sponsor: Senator John J.H. Schwarz, M.D.
Senate Committee: Health Policy and Senior Citizens
House Committee: Health Policy

PUBLIC ACT 248 of 1998

Date Completed: 7-22-98

RATIONALE

There have been widespread reports across the nation of problems associated with the ingestion of gamma-hydroxybutyrate (GHB). Gamma-hydroxybutyrate (a.k.a. liquid ecstasy, scoop, cherry meth, liquid x, and oxy-sleep) is a dangerous, profound anesthetic that can put users in a deep sleep; in combination with alcohol it can induce coma and/or respiratory disfunction leading to severe brain damage or death. The substance can be manufactured in substantial quantities in persons' homes from readily available materials obtained in the community; recipes for GHB are available on the Internet. Though GHB was sold in health food stores in the early 1990s and marketed as a substance to increase endurance and muscle mass, it was later banned by the Food and Drug Administration.

While there are obvious dangers for those who take GHB voluntarily, many people are more troubled by the increasing use of GHB for criminal purposes. Because it is powerful, odorless, and nearly tasteless, a small amount of GHB easily can be slipped undetected into a person's drink. Reportedly, there are increasing incidents in which GHB is used to incapacitate victims for purposes of sexual assault, or the production of pornographic materials. The Federal Drug-Induced Rape Prevention and Punishment Act of 1996 enhanced Federal penalties for those who use controlled substances in connection with rape or other violent crimes; however, GHB is not a controlled substance under Federal law. In Michigan, law enforcement officers reported that since no State statute prohibited the manufacture, use, or possession of GHB, they were powerless to take action when persons were discovered with the substance, and could not even confiscate it. It was suggested that because of the dangers associated

with the ingestion of GHB, it be made a Schedule I substance under the Public Health Code.

CONTENT

The bill amended the Public Health Code to classify as a Schedule 1 controlled substance gamma-hydroxybutyrate and any isomer, salt, or salt of isomer of gamma-hydroxybutyrate, also known as sodium oxybate and 4-hydroxybutanoic acid monosodium salt.

Under the Code, to be classified as a Schedule 1 substance, a substance must have a high potential for abuse and no accepted medical use as a treatment in the United States; or lack accepted safety for use in treatment under medical supervision. Schedule 1 substances include opiates, opium derivatives, listed hallucinogenic substances, and marijuana used for nontherapeutic purposes.

MCL 333.7212

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The dangers inherent in the ingestion of GHB, whether voluntary or involuntary, warrant its classification as a Schedule 1 substance, because it has a high potential for abuse and no accepted medical use as a treatment. What makes GHB particularly dangerous is that it may induce a sleep-like state, and that identical dosages can cause different reactions in different people or even in the same person at different times. Though some recreational users claim that the drug intensifies the

sensation of touch, others say that people under the influence of GHB are unresponsive to pain--much like being under anesthesia. This makes people defenseless and extremely vulnerable. Also, GHB can have severe effects on the central nervous system, and depress the respiratory system to the point of respiratory failure. Many people who have ingested GHB have required resuscitation and hospitalization in intensive care units, or have been placed on ventilators. In addition, GHB affects memory, which makes it difficult for victims to supply information to law enforcement officers after being raped, robbed, or assaulted. Any drug that can have such serious effects on persons who ingest it deserves placement on Schedule 1, which will ban its use, possession, manufacture, and sale.

Supporting Argument

According to the Michigan State Police, the use of GHB has been increasing in the State, and has been implicated in several sexual assault cases and other crimes in which persons have managed to get their victims to ingest the substance unknowingly. Reportedly, law enforcement agencies have been frustrated in their attempts to prosecute persons who have been found with large quantities of GHB because it was not listed as a controlled substance and therefore its possession or distribution was not illegal. The placement of GHB on Schedule 1 solves that problem, and sends a message to those who deal in or use GHB that they will be treated harshly. Under the Code, the manufacture, creation, or delivery of a Schedule 1 substance, or possession with intent to manufacture, create, or deliver the substance, is punishable by imprisonment for up to seven years, a fine up to \$10,000, or both; knowingly or intentionally possessing a Schedule 1 substance is punishable by imprisonment for up to two years, a fine up to \$2,000, or both.

Legislative Analyst: G. Towne

FISCAL IMPACT

The bill will have an indeterminate impact on State and local resources. Depending on the level of enforcement, the bill may result in additional State and local costs associated with incarceration, and/or an increase in revenues from fines that will benefit libraries.

Fiscal Analyst: P. Graham

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.