

2C:35-2

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 1999 **CHAPTER:** 186
NJSA: 2C:35-2 (Dangerous substances—ingestion-prohibited)
BILL NO: S1734 (Substituted for A2957)

SPONSOR(S): Gormley and Girgenti

DATE INTRODUCED: March 15, 1999

COMMITTEE: **ASSEMBLY:** Law & Public Safety

SENATE: Judiciary

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** June 24, 1999

SENATE: May 10, 1999

DATE OF APPROVAL: August 19, 1999

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL: Original
(Amendments during passage denoted by superscript numbers)

S1734

SPONSORS STATEMENT: (Begins on page 6 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** [Yes](#)

SENATE: [Yes](#)

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: No

A2957

SPONSORS STATEMENT: (Begins on page 6 of original bill) [Yes](#)
Bill and Sponsors Statement identical to S1734

COMMITTEE STATEMENT: **ASSEMBLY:** [Yes](#)
Identical to Assembly Statement for S1734

SENATE: No

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: [Yes](#)

FOLLOWING WERE PRINTED:

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REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

"Whitman signs ban on GBL use," Atlantic City Press, 8-20-99, p.A1

Yes

P.L. 1999, CHAPTER 186, *approved August 19, 1999*

Senate, No. 1734

1 AN ACT concerning the unlawful manufacture, distribution and
2 possession of certain dangerous substances and amending
3 N.J.S.2C:35-2.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. N.J.S.2C:35-2 is amended to read as follows:

9 2C:35-2. Definitions.

10 As used in this chapter:

11 "Administer" means the direct application of a controlled dangerous
12 substance or controlled substance analog, whether by injection,
13 inhalation, ingestion, or any other means, to the body of a patient or
14 research subject by: (1) a practitioner (or, in his presence, by his
15 lawfully authorized agent), or (2) the patient or research subject at the
16 lawful direction and in the presence of the practitioner.

17 "Agent" means an authorized person who acts on behalf of or at the
18 direction of a manufacturer, distributor, or dispenser but does not
19 include a common or contract carrier, public warehouseman, or
20 employee thereof.

21 "Controlled dangerous substance" means a drug, substance, or
22 immediate precursor in Schedules I through V, any substance the
23 distribution of which is specifically prohibited in N.J.S.2C:35-3, in
24 section 3 of P.L. 1997, c.194 (C.2C:35-5.2) or in section 5 of P.L.
25 1997, c. 194 (C.2C:35-5.3) and any drug or substance which, when
26 ingested, is metabolized or otherwise becomes a controlled dangerous
27 substance in the human body. When any statute refers to controlled
28 dangerous substances, or to a specific controlled dangerous substance,
29 it shall also be deemed to refer to any drug or substance which, when
30 ingested, is metabolized or otherwise becomes a controlled dangerous
31 substance or the specific controlled dangerous substance, and to any
32 substance that is an immediate precursor of a controlled dangerous
33 substance or the specific controlled dangerous substance. The term
34 shall not include distilled spirits, wine, malt beverages, as those terms
35 are defined or used in R.S.33:1-1 et seq., or tobacco and tobacco
36 products. The term, wherever it appears in any law or administrative
37 regulation of this State, shall include controlled substance analogs.

38 "Controlled substance analog" means a substance that has a
39 chemical structure substantially similar to that of a controlled
40 dangerous substance and that was specifically designed to produce an
41 effect substantially similar to that of a controlled dangerous substance.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 The term shall not include a substance manufactured or distributed in
2 conformance with the provisions of an approved new drug application
3 or an exemption for investigational use within the meaning of section
4 505 of the "Federal Food, Drug and Cosmetic Act," 52 Stat. 1052 (21
5 U.S.C. s. 355).

6 "Counterfeit substance" means a controlled dangerous substance or
7 controlled substance analog which, or the container or labeling of
8 which, without authorization, bears the trademark, trade name, or
9 other identifying mark, imprint, number or device, or any likeness
10 thereof, of a manufacturer, distributor, or dispenser other than the
11 person or persons who in fact manufactured, distributed or dispensed
12 such substance and which thereby falsely purports or is represented to
13 be the product of, or to have been distributed by, such other
14 manufacturer, distributor, or dispenser.

15 "Deliver" or "delivery" means the actual, constructive, or attempted
16 transfer from one person to another of a controlled dangerous
17 substance or controlled substance analog, whether or not there is an
18 agency relationship.

19 "Dispense" means to deliver a controlled dangerous substance or
20 controlled substance analog to an ultimate user or research subject by
21 or pursuant to the lawful order of a practitioner, including the
22 prescribing, administering, packaging, labeling, or compounding
23 necessary to prepare the substance for that delivery. "Dispenser"
24 means a practitioner who dispenses.

25 "Distribute" means to deliver other than by administering or
26 dispensing a controlled dangerous substance or controlled substance
27 analog. "Distributor" means a person who distributes.

28 "Drugs" means (a) substances recognized in the official United
29 States Pharmacopoeia, official Homeopathic Pharmacopoeia of the
30 United States, or official National Formulary, or any supplement to
31 any of them; and (b) substances intended for use in the diagnosis, cure,
32 mitigation, treatment, or prevention of disease in man or other animals;
33 and (c) substances (other than food) intended to affect the structure or
34 any function of the body of man or other animals; and (d) substances
35 intended for use as a component of any article specified in subsections
36 (a), (b) and (c) of this section; but does not include devices or their
37 components, parts or accessories.

38 "Drug dependent person" means a person who is using a controlled
39 dangerous substance or controlled substance analog and who is in a
40 state of psychic or physical dependence, or both, arising from the use
41 of that controlled dangerous substance or controlled substance analog
42 on a continuous basis. Drug dependence is characterized by behavioral
43 and other responses, including but not limited to a strong compulsion
44 to take the substance on a recurring basis in order to experience its
45 psychic effects, or to avoid the discomfort of its absence.

46 "Hashish" means the resin extracted from any part of the plant

1 Genus Cannabis L. and any compound, manufacture, salt, derivative,
2 mixture, or preparation of such resin.

3 "Manufacture" means the production, preparation, propagation,
4 compounding, conversion or processing of a controlled dangerous
5 substance or controlled substance analog, either directly or by
6 extraction from substances of natural origin, or independently by
7 means of chemical synthesis, or by a combination of extraction and
8 chemical synthesis, and includes any packaging or repackaging of the
9 substance or labeling or relabeling of its container, except that this
10 term does not include the preparation or compounding of a controlled
11 dangerous substance or controlled substance analog by an individual
12 for his own use or the preparation, compounding, packaging, or
13 labeling of a controlled dangerous substance: (1) by a practitioner as
14 an incident to his administering or dispensing of a controlled
15 dangerous substance or controlled substance analog in the course of
16 his professional practice, or (2) by a practitioner (or under his
17 supervision) for the purpose of, or as an incident to, research,
18 teaching, or chemical analysis and not for sale.

19 "Marijuana" means all parts of the plant Genus Cannabis L.,
20 whether growing or not; the seeds thereof, and every compound,
21 manufacture, salt, derivative, mixture, or preparation of such plant or
22 its seeds, except those containing resin extracted from such plant; but
23 shall not include the mature stalks of such plant, fiber produced from
24 such stalks, oil or cake made from the seeds of such plant, any other
25 compound, manufacture, salt, derivative, mixture, or preparation of
26 such mature stalks, fiber, oil, or cake, or the sterilized seed of such
27 plant which is incapable of germination.

28 "Narcotic drug" means any of the following, whether produced
29 directly or indirectly by extraction from substances of vegetable origin,
30 or independently by means of chemical synthesis, or by a combination
31 of extraction and chemical synthesis:

32 (a) Opium, coca leaves, and opiates;

33 (b) A compound, manufacture, salt, derivative, or preparation of
34 opium, coca leaves, or opiates;

35 (c) A substance (and any compound, manufacture, salt, derivative,
36 or preparation thereof) which is chemically identical with any of the
37 substances referred to in subsections (a) and (b), except that the words
38 "narcotic drug" as used in this act shall not include decocainized coca
39 leaves or extracts of coca leaves, which extracts do not contain
40 cocaine or ecogine.

41 "Opiate" means any dangerous substance having an
42 addiction-forming or addiction-sustaining liability similar to morphine
43 or being capable of conversion into a drug having such
44 addiction-forming or addiction-sustaining liability. It does not include,
45 unless specifically designated as controlled pursuant to the provisions
46 of section 3 of P.L.1970, c.226 (C.24:21-3), the dextrorotatory isomer

1 of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).
2 It does include its racemic and levorotatory forms.

3 "Opium poppy" means the plant of the species *Papaver somniferum*
4 L., except the seeds thereof.

5 "Person" means any corporation, association, partnership, trust,
6 other institution or entity or one or more individuals.

7 "Plant" means an organism having leaves and a readily observable
8 root formation, including, but not limited to, a cutting having roots, a
9 rootball or root hairs.

10 "Poppy straw" means all parts, except the seeds, of the opium
11 poppy, after mowing.

12 "Practitioner" means a physician, dentist, veterinarian, scientific
13 investigator, laboratory, pharmacy, hospital or other person licensed,
14 registered, or otherwise permitted to distribute, dispense, conduct
15 research with respect to, or administer a controlled dangerous
16 substance or controlled substance analog in the course of professional
17 practice or research in this State.

18 (a) "Physician" means a physician authorized by law to practice
19 medicine in this or any other state and any other person authorized by
20 law to treat sick and injured human beings in this or any other state.

21 (b) "Veterinarian" means a veterinarian authorized by law to
22 practice veterinary medicine in this State.

23 (c) "Dentist" means a dentist authorized by law to practice
24 dentistry in this State.

25 (d) "Hospital" means any federal institution, or any institution for
26 the care and treatment of the sick and injured, operated or approved
27 by the appropriate State department as proper to be entrusted with the
28 custody and professional use of controlled dangerous substances or
29 controlled substance analogs.

30 (e) "Laboratory" means a laboratory to be entrusted with the
31 custody of narcotic drugs and the use of controlled dangerous
32 substances or controlled substance analogs for scientific, experimental
33 and medical purposes and for purposes of instruction approved by the
34 State Department of Health and Senior Services.

35 "Production" includes the manufacture, planting, cultivation,
36 growing, or harvesting of a controlled dangerous substance or
37 controlled substance analog.

38 "Immediate precursor" means a substance which the State
39 Department of Health and Senior Services has found to be and by
40 regulation designates as being the principal compound commonly used
41 or produced primarily for use, and which is an immediate chemical
42 intermediary used or likely to be used in the manufacture of a
43 controlled dangerous substance or controlled substance analog, the
44 control of which is necessary to prevent, curtail, or limit such
45 manufacture.

46 "Residential treatment facility" means any facility approved by any

1 county probation department for the inpatient treatment and
2 rehabilitation of drug dependent persons.

3 "Schedules I, II, III, IV, and V" are the schedules set forth in
4 sections 5 through 8 of P.L.1970, c.226 (C.24:21-5 through 24:21-8)
5 and in section 4 of P.L.1971, c.3 (C.24:21-8.1) and as modified by any
6 regulations issued by the Commissioner of Health and Senior Services
7 pursuant to his authority as provided in section 3 of P.L.1970, c.226
8 (C.24:21-3).

9 "State" means the State of New Jersey.

10 "Ultimate user" means a person who lawfully possesses a controlled
11 dangerous substance or controlled substance analog for his own use
12 or for the use of a member of his household or for administration to an
13 animal owned by him or by a member of his household.
14 (cf: P.L.1997, c.186, s.1.)

15

16 2. This act shall take effect immediately.

17

18

19

STATEMENT

20

21 This bill responds to recent reports of the distribution and
22 possession of substances similar to gamma hydroxybutyrate (GHB)
23 that, when ingested, are converted by the body into GHB. The bill
24 makes clear that the laws against the illegal manufacture, distribution
25 and possession of controlled dangerous substances may not be
26 circumvented by the use of substances that are readily changed into
27 controlled dangerous substances when consumed.

28

29

30

31

32 Clarifies that the distribution or possession of substances which are
33 converted to controlled dangerous substances by ingestion is
34 prohibited.

SENATE, No. 1734

STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED MARCH 15, 1999

Sponsored by:

Senator WILLIAM L. GORMLEY

District 2 (Atlantic)

Senator JOHN A. GIRGENTI

District 35 (Passaic)

Co-Sponsored by:

Assemblymen Thompson, LeFevre, Conaway and Holzapfel

SYNOPSIS

Clarifies that the distribution or possession of substances which are converted to controlled dangerous substances by ingestion is prohibited.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/25/1999)

S1734 GORMLEY, GIRGENTI

2

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2 possession of certain dangerous substances and amending
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5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

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8 1. N.J.S.2C:35-2 is amended to read as follows:

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12 substance or controlled substance analog, whether by injection,
13 inhalation, ingestion, or any other means, to the body of a patient or
14 research subject by: (1) a practitioner (or, in his presence, by his
15 lawfully authorized agent), or (2) the patient or research subject at the
16 lawful direction and in the presence of the practitioner.

17 "Agent" means an authorized person who acts on behalf of or at the
18 direction of a manufacturer, distributor, or dispenser but does not
19 include a common or contract carrier, public warehouseman, or
20 employee thereof.

21 "Controlled dangerous substance" means a drug, substance, or
22 immediate precursor in Schedules I through V, any substance the
23 distribution of which is specifically prohibited in N.J.S.2C:35-3, in
24 section 3 of P.L. 1997, c.194 (C.2C:35-5.2) or in section 5 of P.L.
25 1997, c. 194 (C.2C:35-5.3) and any drug or substance which, when
26 ingested, is metabolized or otherwise becomes a controlled dangerous
27 substance in the human body. When any statute refers to controlled
28 dangerous substances, or to a specific controlled dangerous substance,
29 it shall also be deemed to refer to any drug or substance which, when
30 ingested, is metabolized or otherwise becomes a controlled dangerous
31 substance or the specific controlled dangerous substance, and to any
32 substance that is an immediate precursor of a controlled dangerous
33 substance or the specific controlled dangerous substance. The term
34 shall not include distilled spirits, wine, malt beverages, as those terms
35 are defined or used in R.S.33:1-1 et seq., or tobacco and tobacco
36 products. The term, wherever it appears in any law or administrative
37 regulation of this State, shall include controlled substance analogs.

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42 The term shall not include a substance manufactured or distributed in
43 conformance with the provisions of an approved new drug application

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

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1 or an exemption for investigational use within the meaning of section
2 505 of the "Federal Food, Drug and Cosmetic Act," 52 Stat. 1052 (21
3 U.S.C. s. 355).

4 "Counterfeit substance" means a controlled dangerous substance or
5 controlled substance analog which, or the container or labeling of
6 which, without authorization, bears the trademark, trade name, or
7 other identifying mark, imprint, number or device, or any likeness
8 thereof, of a manufacturer, distributor, or dispenser other than the
9 person or persons who in fact manufactured, distributed or dispensed
10 such substance and which thereby falsely purports or is represented to
11 be the product of, or to have been distributed by, such other
12 manufacturer, distributor, or dispenser.

13 "Deliver" or "delivery" means the actual, constructive, or attempted
14 transfer from one person to another of a controlled dangerous
15 substance or controlled substance analog, whether or not there is an
16 agency relationship.

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19 or pursuant to the lawful order of a practitioner, including the
20 prescribing, administering, packaging, labeling, or compounding
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27 States Pharmacopoeia, official Homeopathic Pharmacopoeia of the
28 United States, or official National Formulary, or any supplement to
29 any of them; and (b) substances intended for use in the diagnosis, cure,
30 mitigation, treatment, or prevention of disease in man or other animals;
31 and (c) substances (other than food) intended to affect the structure or
32 any function of the body of man or other animals; and (d) substances
33 intended for use as a component of any article specified in subsections
34 (a), (b) and (c) of this section; but does not include devices or their
35 components, parts or accessories.

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37 dangerous substance or controlled substance analog and who is in a
38 state of psychic or physical dependence, or both, arising from the use
39 of that controlled dangerous substance or controlled substance analog
40 on a continuous basis. Drug dependence is characterized by behavioral
41 and other responses, including but not limited to a strong compulsion
42 to take the substance on a recurring basis in order to experience its
43 psychic effects, or to avoid the discomfort of its absence.

44 "Hashish" means the resin extracted from any part of the plant
45 Genus Cannabis L. and any compound, manufacture, salt, derivative,
46 mixture, or preparation of such resin.

1 "Manufacture" means the production, preparation, propagation,
2 compounding, conversion or processing of a controlled dangerous
3 substance or controlled substance analog, either directly or by
4 extraction from substances of natural origin, or independently by
5 means of chemical synthesis, or by a combination of extraction and
6 chemical synthesis, and includes any packaging or repackaging of the
7 substance or labeling or relabeling of its container, except that this
8 term does not include the preparation or compounding of a controlled
9 dangerous substance or controlled substance analog by an individual
10 for his own use or the preparation, compounding, packaging, or
11 labeling of a controlled dangerous substance: (1) by a practitioner as
12 an incident to his administering or dispensing of a controlled
13 dangerous substance or controlled substance analog in the course of
14 his professional practice, or (2) by a practitioner (or under his
15 supervision) for the purpose of, or as an incident to, research,
16 teaching, or chemical analysis and not for sale.

17 "Marijuana" means all parts of the plant Genus Cannabis L.,
18 whether growing or not; the seeds thereof, and every compound,
19 manufacture, salt, derivative, mixture, or preparation of such plant or
20 its seeds, except those containing resin extracted from such plant; but
21 shall not include the mature stalks of such plant, fiber produced from
22 such stalks, oil or cake made from the seeds of such plant, any other
23 compound, manufacture, salt, derivative, mixture, or preparation of
24 such mature stalks, fiber, oil, or cake, or the sterilized seed of such
25 plant which is incapable of germination.

26 "Narcotic drug" means any of the following, whether produced
27 directly or indirectly by extraction from substances of vegetable origin,
28 or independently by means of chemical synthesis, or by a combination
29 of extraction and chemical synthesis:

30 (a) Opium, coca leaves, and opiates;

31 (b) A compound, manufacture, salt, derivative, or preparation of
32 opium, coca leaves, or opiates;

33 (c) A substance (and any compound, manufacture, salt, derivative,
34 or preparation thereof) which is chemically identical with any of the
35 substances referred to in subsections (a) and (b), except that the words
36 "narcotic drug" as used in this act shall not include decocainized coca
37 leaves or extracts of coca leaves, which extracts do not contain
38 cocaine or ecogine.

39 "Opiate" means any dangerous substance having an
40 addiction-forming or addiction-sustaining liability similar to morphine
41 or being capable of conversion into a drug having such
42 addiction-forming or addiction-sustaining liability. It does not include,
43 unless specifically designated as controlled pursuant to the provisions
44 of section 3 of P.L.1970, c.226 (C.24:21-3), the dextrorotatory isomer
45 of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).
46 It does include its racemic and levorotatory forms.

1 "Opium poppy" means the plant of the species *Papaver somniferum*
2 L., except the seeds thereof.

3 "Person" means any corporation, association, partnership, trust,
4 other institution or entity or one or more individuals.

5 "Plant" means an organism having leaves and a readily observable
6 root formation, including, but not limited to, a cutting having roots, a
7 rootball or root hairs.

8 "Poppy straw" means all parts, except the seeds, of the opium
9 poppy, after mowing.

10 "Practitioner" means a physician, dentist, veterinarian, scientific
11 investigator, laboratory, pharmacy, hospital or other person licensed,
12 registered, or otherwise permitted to distribute, dispense, conduct
13 research with respect to, or administer a controlled dangerous
14 substance or controlled substance analog in the course of professional
15 practice or research in this State.

16 (a) "Physician" means a physician authorized by law to practice
17 medicine in this or any other state and any other person authorized by
18 law to treat sick and injured human beings in this or any other state.

19 (b) "Veterinarian" means a veterinarian authorized by law to
20 practice veterinary medicine in this State.

21 (c) "Dentist" means a dentist authorized by law to practice
22 dentistry in this State.

23 (d) "Hospital" means any federal institution, or any institution for
24 the care and treatment of the sick and injured, operated or approved
25 by the appropriate State department as proper to be entrusted with the
26 custody and professional use of controlled dangerous substances or
27 controlled substance analogs.

28 (e) "Laboratory" means a laboratory to be entrusted with the
29 custody of narcotic drugs and the use of controlled dangerous
30 substances or controlled substance analogs for scientific, experimental
31 and medical purposes and for purposes of instruction approved by the
32 State Department of Health and Senior Services.

33 "Production" includes the manufacture, planting, cultivation,
34 growing, or harvesting of a controlled dangerous substance or
35 controlled substance analog.

36 "Immediate precursor" means a substance which the State
37 Department of Health and Senior Services has found to be and by
38 regulation designates as being the principal compound commonly used
39 or produced primarily for use, and which is an immediate chemical
40 intermediary used or likely to be used in the manufacture of a
41 controlled dangerous substance or controlled substance analog, the
42 control of which is necessary to prevent, curtail, or limit such
43 manufacture.

44 "Residential treatment facility" means any facility approved by any
45 county probation department for the inpatient treatment and
46 rehabilitation of drug dependent persons.

1 "Schedules I, II, III, IV, and V" are the schedules set forth in
2 sections 5 through 8 of P.L.1970, c.226 (C.24:21-5 through 24:21-8)
3 and in section 4 of P.L.1971, c.3 (C.24:21-8.1) and as modified by any
4 regulations issued by the Commissioner of Health and Senior Services
5 pursuant to his authority as provided in section 3 of P.L.1970, c.226
6 (C.24:21-3).

7 "State" means the State of New Jersey.

8 "Ultimate user" means a person who lawfully possesses a controlled
9 dangerous substance or controlled substance analog for his own use
10 or for the use of a member of his household or for administration to an
11 animal owned by him or by a member of his household.
12 (cf: P.L.1997, c.186, s.1.)

13

14 2. This act shall take effect immediately.

15

16

17

STATEMENT

18

19 This bill responds to recent reports of the distribution and
20 possession of substances similar to gamma hydroxybutyrate (GHB)
21 that, when ingested, are converted by the body into GHB. The bill
22 makes clear that the laws against the illegal manufacture, distribution
23 and possession of controlled dangerous substances may not be
24 circumvented by the use of substances that are readily changed into
25 controlled dangerous substances when consumed.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE, No. 1734

STATE OF NEW JERSEY

DATED: JUNE 7, 1999

The Assembly Law and Public Safety Committee reports favorably Senate Bill No. 1734.

Senate Bill No. 1734 responds to recent reports of the distribution and possession of substances similar to gamma hydroxybutyrate (GHB) that, when ingested, are converted by the body into GHB. The bill makes clear that the laws against the illegal manufacture, distribution and possession of controlled dangerous substances may not be circumvented by the use of substances that are readily changed into controlled dangerous substances when consumed.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 1734

STATE OF NEW JERSEY

DATED: MARCH 18, 1999

The Senate Judiciary Committee reports favorably Senate Bill No. 1734.

This bill would amend the definition of the term "controlled dangerous substance" as used in the Criminal Code to include any substance which, upon ingestion, becomes a controlled dangerous substance. The bill is intended to insure that the criminal statutes which prohibit the sale and distribution of controlled dangerous substances also apply to substances such as gamma butyrolactone (GBL) which upon ingestion is converted to the illegal "date rape" drug, gamma hydroxybutyrate (GHB).

This bill also specifically includes in the definition of "controlled dangerous substance" references to statutes enacted in 1997 outlawing GHB and another "date rape" drug, flunitrazepam.

ASSEMBLY, No. 2957

STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED MARCH 11, 1999

Sponsored by:

Assemblyman SAMUEL D. THOMPSON

District 13 (Middlesex and Monmouth)

Assemblyman KENNETH C. LEFEVRE

District 2 (Atlantic)

Co-Sponsored by:

Assemblymen Conaway and Holzapfel

SYNOPSIS

Clarifies that the distribution or possession of substances which are converted to controlled dangerous substances by ingestion is prohibited.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/25/1999)

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2 possession of certain dangerous substances and amending
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15 lawfully authorized agent), or (2) the patient or research subject at the
16 lawful direction and in the presence of the practitioner.

17 "Agent" means an authorized person who acts on behalf of or at the
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22 immediate precursor in Schedules I through V, any substance the
23 distribution of which is specifically prohibited in N.J.S.2C:35-3, in
24 section 3 of P.L. 1997, c.194 (C.2C:35-5.2) or in section 5 of P.L.
25 1997, c. 194 (C.2C:35-5.3) and any drug or substance which, when
26 ingested, is metabolized or otherwise becomes a controlled dangerous
27 substance in the human body. When any statute refers to controlled
28 dangerous substances, or to a specific controlled dangerous substance,
29 it shall also be deemed to refer to any drug or substance which, when
30 ingested, is metabolized or otherwise becomes a controlled dangerous
31 substance or the specific controlled dangerous substance, and to any
32 substance that is an immediate precursor of a controlled dangerous
33 substance or the specific controlled dangerous substance. The term
34 shall not include distilled spirits, wine, malt beverages, as those terms
35 are defined or used in R.S.33:1-1 et seq., or tobacco and tobacco
36 products. The term, wherever it appears in any law or administrative
37 regulation of this State, shall include controlled substance analogs.

38 "Controlled substance analog" means a substance that has a
39 chemical structure substantially similar to that of a controlled
40 dangerous substance and that was specifically designed to produce an
41 effect substantially similar to that of a controlled dangerous substance.
42 The term shall not include a substance manufactured or distributed in
43 conformance with the provisions of an approved new drug application

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 or an exemption for investigational use within the meaning of section
2 505 of the "Federal Food, Drug and Cosmetic Act," 52 Stat. 1052 (21
3 U.S.C. s. 355).

4 "Counterfeit substance" means a controlled dangerous substance or
5 controlled substance analog which, or the container or labeling of
6 which, without authorization, bears the trademark, trade name, or
7 other identifying mark, imprint, number or device, or any likeness
8 thereof, of a manufacturer, distributor, or dispenser other than the
9 person or persons who in fact manufactured, distributed or dispensed
10 such substance and which thereby falsely purports or is represented to
11 be the product of, or to have been distributed by, such other
12 manufacturer, distributor, or dispenser.

13 "Deliver" or "delivery" means the actual, constructive, or attempted
14 transfer from one person to another of a controlled dangerous
15 substance or controlled substance analog, whether or not there is an
16 agency relationship.

17 "Dispense" means to deliver a controlled dangerous substance or
18 controlled substance analog to an ultimate user or research subject by
19 or pursuant to the lawful order of a practitioner, including the
20 prescribing, administering, packaging, labeling, or compounding
21 necessary to prepare the substance for that delivery. "Dispenser"
22 means a practitioner who dispenses.

23 "Distribute" means to deliver other than by administering or
24 dispensing a controlled dangerous substance or controlled substance
25 analog. "Distributor" means a person who distributes.

26 "Drugs" means (a) substances recognized in the official United
27 States Pharmacopoeia, official Homeopathic Pharmacopoeia of the
28 United States, or official National Formulary, or any supplement to
29 any of them; and (b) substances intended for use in the diagnosis, cure,
30 mitigation, treatment, or prevention of disease in man or other animals;
31 and (c) substances (other than food) intended to affect the structure or
32 any function of the body of man or other animals; and (d) substances
33 intended for use as a component of any article specified in subsections
34 (a), (b) and (c) of this section; but does not include devices or their
35 components, parts or accessories.

36 "Drug dependent person" means a person who is using a controlled
37 dangerous substance or controlled substance analog and who is in a
38 state of psychic or physical dependence, or both, arising from the use
39 of that controlled dangerous substance or controlled substance analog
40 on a continuous basis. Drug dependence is characterized by behavioral
41 and other responses, including but not limited to a strong compulsion
42 to take the substance on a recurring basis in order to experience its
43 psychic effects, or to avoid the discomfort of its absence.

44 "Hashish" means the resin extracted from any part of the plant
45 Genus Cannabis L. and any compound, manufacture, salt, derivative,
46 mixture, or preparation of such resin.

1 "Manufacture" means the production, preparation, propagation,
2 compounding, conversion or processing of a controlled dangerous
3 substance or controlled substance analog, either directly or by
4 extraction from substances of natural origin, or independently by
5 means of chemical synthesis, or by a combination of extraction and
6 chemical synthesis, and includes any packaging or repackaging of the
7 substance or labeling or relabeling of its container, except that this
8 term does not include the preparation or compounding of a controlled
9 dangerous substance or controlled substance analog by an individual
10 for his own use or the preparation, compounding, packaging, or
11 labeling of a controlled dangerous substance: (1) by a practitioner as
12 an incident to his administering or dispensing of a controlled
13 dangerous substance or controlled substance analog in the course of
14 his professional practice, or (2) by a practitioner (or under his
15 supervision) for the purpose of, or as an incident to, research,
16 teaching, or chemical analysis and not for sale.

17 "Marijuana" means all parts of the plant Genus Cannabis L.,
18 whether growing or not; the seeds thereof, and every compound,
19 manufacture, salt, derivative, mixture, or preparation of such plant or
20 its seeds, except those containing resin extracted from such plant; but
21 shall not include the mature stalks of such plant, fiber produced from
22 such stalks, oil or cake made from the seeds of such plant, any other
23 compound, manufacture, salt, derivative, mixture, or preparation of
24 such mature stalks, fiber, oil, or cake, or the sterilized seed of such
25 plant which is incapable of germination.

26 "Narcotic drug" means any of the following, whether produced
27 directly or indirectly by extraction from substances of vegetable origin,
28 or independently by means of chemical synthesis, or by a combination
29 of extraction and chemical synthesis:

30 (a) Opium, coca leaves, and opiates;

31 (b) A compound, manufacture, salt, derivative, or preparation of
32 opium, coca leaves, or opiates;

33 (c) A substance (and any compound, manufacture, salt, derivative,
34 or preparation thereof) which is chemically identical with any of the
35 substances referred to in subsections (a) and (b), except that the words
36 "narcotic drug" as used in this act shall not include decocainized coca
37 leaves or extracts of coca leaves, which extracts do not contain
38 cocaine or ecogine.

39 "Opiate" means any dangerous substance having an
40 addiction-forming or addiction-sustaining liability similar to morphine
41 or being capable of conversion into a drug having such
42 addiction-forming or addiction-sustaining liability. It does not include,
43 unless specifically designated as controlled pursuant to the provisions
44 of section 3 of P.L.1970, c.226 (C.24:21-3), the dextrorotatory isomer
45 of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).
46 It does include its racemic and levorotatory forms.

1 "Opium poppy" means the plant of the species *Papaver somniferum*
2 L., except the seeds thereof.

3 "Person" means any corporation, association, partnership, trust,
4 other institution or entity or one or more individuals.

5 "Plant" means an organism having leaves and a readily observable
6 root formation, including, but not limited to, a cutting having roots, a
7 rootball or root hairs.

8 "Poppy straw" means all parts, except the seeds, of the opium
9 poppy, after mowing.

10 "Practitioner" means a physician, dentist, veterinarian, scientific
11 investigator, laboratory, pharmacy, hospital or other person licensed,
12 registered, or otherwise permitted to distribute, dispense, conduct
13 research with respect to, or administer a controlled dangerous
14 substance or controlled substance analog in the course of professional
15 practice or research in this State.

16 (a) "Physician" means a physician authorized by law to practice
17 medicine in this or any other state and any other person authorized by
18 law to treat sick and injured human beings in this or any other state.

19 (b) "Veterinarian" means a veterinarian authorized by law to
20 practice veterinary medicine in this State.

21 (c) "Dentist" means a dentist authorized by law to practice
22 dentistry in this State.

23 (d) "Hospital" means any federal institution, or any institution for
24 the care and treatment of the sick and injured, operated or approved
25 by the appropriate State department as proper to be entrusted with the
26 custody and professional use of controlled dangerous substances or
27 controlled substance analogs.

28 (e) "Laboratory" means a laboratory to be entrusted with the
29 custody of narcotic drugs and the use of controlled dangerous
30 substances or controlled substance analogs for scientific, experimental
31 and medical purposes and for purposes of instruction approved by the
32 State Department of Health and Senior Services.

33 "Production" includes the manufacture, planting, cultivation,
34 growing, or harvesting of a controlled dangerous substance or
35 controlled substance analog.

36 "Immediate precursor" means a substance which the State
37 Department of Health and Senior Services has found to be and by
38 regulation designates as being the principal compound commonly used
39 or produced primarily for use, and which is an immediate chemical
40 intermediary used or likely to be used in the manufacture of a
41 controlled dangerous substance or controlled substance analog, the
42 control of which is necessary to prevent, curtail, or limit such
43 manufacture.

44 "Residential treatment facility" means any facility approved by any
45 county probation department for the inpatient treatment and
46 rehabilitation of drug dependent persons.

1 "Schedules I, II, III, IV, and V" are the schedules set forth in
2 sections 5 through 8 of P.L.1970, c.226 (C.24:21-5 through 24:21-8)
3 and in section 4 of P.L.1971, c.3 (C.24:21-8.1) and as modified by any
4 regulations issued by the Commissioner of Health and Senior Services
5 pursuant to his authority as provided in section 3 of P.L.1970, c.226
6 (C.24:21-3).

7 "State" means the State of New Jersey.

8 "Ultimate user" means a person who lawfully possesses a controlled
9 dangerous substance or controlled substance analog for his own use
10 or for the use of a member of his household or for administration to an
11 animal owned by him or by a member of his household.
12 (cf: P.L.1997, c.186, s.1.)

13

14 2. This act shall take effect immediately.

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16

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STATEMENT

18

19 This bill responds to recent reports of the distribution and
20 possession of substances similar to gamma hydroxybutyrate (GHB)
21 that, when ingested, are converted by the body into GHB. The bill
22 makes clear that the laws against the illegal manufacture, distribution
23 and possession of controlled dangerous substances may not be
24 circumvented by the use of substances that are readily changed into
25 controlled dangerous substances when consumed.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2957

STATE OF NEW JERSEY

DATED: JUNE 7, 1999

The Assembly Law and Public Safety Committee reports favorably Assembly Bill No. 2957.

Assembly Bill No. 2957 responds to recent reports of the distribution and possession of substances similar to gamma hydroxybutyrate (GHB) that, when ingested, are converted by the body into GHB. The bill makes clear that the laws against the illegal manufacture, distribution and possession of controlled dangerous substances may not be circumvented by the use of substances that are readily changed into controlled dangerous substances when consumed.

GOVERNOR SIGNS BILL EXPANDING DEFINITION OF DATE RAPE DRUGS

Gov. Christie Whitman today signed legislation, which expands the definition of controlled dangerous substance to include any substance that metabolizes into a controlled dangerous substance after ingestion.

The bill, **S-1734**, sponsored by Senator William L. Gormley (R-Atlantic) and John A. Girgenti (D-Passaic) and Assembly Members Kenneth C. LeFevre (R-Atlantic) and Sam Thompson (R-Middlesex/Monmouth), was introduced in response to a number of incidents in which individuals required hospitalization after ingesting a substance know as GBL. Once ingested, GBL metabolizes into GHB, one of the date rape drugs that can cause amnesia and loss of motor control.

While the criminal code previously prohibited GHB, GBL was a legal substance and substance abusers, who used the drug themselves or gave it to others, were able to substitute GBL for GHB without violating the law. The bill also amends the definition of controlled dangerous substance to include the so-called date rape drugs, GHB and flunitrazepam, which are prohibited under the Criminal Code.

"The bill makes it abundantly clear that despite the way it is ingested, GBL is just as dangerous as any other so-called date-rape drug," Gov. Whitman said. "It has caused the hospitalization of many individuals who ingested it, resulting in many serious health problems."

Senator Gormley said, "Let those who would distribute this dangerous substance to others or use it themselves be warned that from now on they will be subject to the same penalties under the law as users and purveyors of other illegal substances."

Assembly Member LeFevre said, "This legislation seeks to protect individuals who may unknowingly become the victims of those using GBL to cause them harm."