

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 111 Session of
1999

INTRODUCED BY DERMODY, GANNON, BLAUM, PESCI, M. COHEN, BISHOP,
READSHAW, CALTAGIRONE, TRELLO, PRESTON, WALKO, MAITLAND,
WASHINGTON, DALEY, HARHAI, SURRA, STEELMAN, MAHER, HORSEY AND
SERAFINI, JANUARY 25, 1999

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF
REPRESENTATIVES, AS AMENDED, APRIL 20, 1999

AN ACT

1 Amending the act of April 14, 1972 (P.L.233, No.64), entitled
2 "An act relating to the manufacture, sale and possession of
3 controlled substances, other drugs, devices and cosmetics;
4 conferring powers on the courts and the secretary and
5 Department of Health, and a newly created Pennsylvania Drug,
6 Device and Cosmetic Board; establishing schedules of
7 controlled substances; providing penalties; requiring
8 registration of persons engaged in the drug trade and for the
9 revocation or suspension of certain licenses and
10 registrations; and repealing an act," regulating gamma
11 ~~hydroxybutrate~~ HYDROXYBUTYRIC acid; PROHIBITING CERTAIN <—
12 ADVERTISEMENTS BY ELECTRONIC TRANSMISSION; AND FURTHER
13 PROVIDING FOR PROHIBITED ACTS.

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 ~~Section 1. Section 4(4) of the act of April 14, 1972~~ <—
17 ~~(P.L.233, No.64), known as The Controlled Substance, Drug,~~
18 ~~Device and Cosmetic Act, amended November 26, 1978 (P.L.1392,~~
19 ~~No.328), is amended to read:~~

20 SECTION 1. SECTION 4(3) OF THE ACT OF APRIL 14, 1972 <—
21 (P.L.233, NO.64), KNOWN AS THE CONTROLLED SUBSTANCE, DRUG,
22 DEVICE AND COSMETIC ACT, IS AMENDED BY ADDING A SUBCLAUSE TO

1 READ:

2 Section 4. Schedules of Controlled Substances.--The
3 following schedules include the controlled substances listed or
4 to be listed by whatever official name, common or usual name,
5 chemical name, or trade name designated.

6 * * *

7 ~~(4) Schedule IV In determining that a substance comes~~ <—
8 ~~within this schedule, the secretary shall find: a low potential~~
9 ~~for abuse relative to substances in Schedule III; currently~~
10 ~~accepted medical use in the United States; and limited physical~~
11 ~~and/or psychological dependence liability relative to the~~
12 ~~substances listed in Schedule III. The following controlled~~
13 ~~substances are included in this schedule:~~

14 ~~(i) Any material, compound, mixture, or preparation, unless~~
15 ~~specifically excepted or unless listed in another schedule,~~
16 ~~which contains any quantity of the following substances:~~

- 17 1. ~~Barbital.~~
- 18 2. ~~Chloral betaine.~~
- 19 3. ~~Chloral hydrate.~~
- 20 4. ~~Ethchlorvynol.~~
- 21 5. ~~Ethinamate.~~
- 22 6. ~~Methohexital.~~
- 23 7. ~~Meprobamate.~~
- 24 8. ~~Methylphenobarbital.~~
- 25 9. ~~Paraldehyde.~~
- 26 10. ~~Petrichloral.~~
- 27 11. ~~Phenobarbital.~~

28 ~~(i.1) Gamma hydroxybutrate acid.~~

29 ~~(ii) The secretary may by regulation except any compound,~~
30 ~~mixture, or preparation containing any drug or controlled~~

1 ~~dangerous substance listed in subelause (i) of this schedule~~
2 ~~above from the application of those provisions of this act~~
3 ~~covering controlled drugs, if the compound, mixture, or~~
4 ~~preparation contains one or more active medicinal ingredients~~
5 ~~not having a stimulant or depressant effect on the central~~
6 ~~nervous system: Provided, That such admixtures shall be included~~
7 ~~therein in such combinations, quantity, proportion, or~~
8 ~~concentration as to vitiate the potential for abuse of the~~
9 ~~substances which do have a stimulant or depressant effect on the~~
10 ~~central nervous system.~~

11 ~~(iii) The secretary shall by regulation exempt any~~
12 ~~nonnarcotic substance from the control under this act if such~~
13 ~~substance may, under the provisions of the Federal Food, Drug,~~
14 ~~and Cosmetic Act (21 U.S.C. 301 et seq.), be lawfully sold over~~
15 ~~the counter without a prescription.~~

16 * * *

17 (3) SCHEDULE III--IN DETERMINING THAT A SUBSTANCE COMES <—
18 WITHIN THIS SCHEDULE, THE SECRETARY SHALL FIND: A POTENTIAL FOR
19 ABUSE LESS THAN THE SUBSTANCES LISTED IN SCHEDULES I AND II;
20 WELL DOCUMENTED AND CURRENTLY ACCEPTED MEDICAL USE IN THE UNITED
21 STATES; AND ABUSE MAY LEAD TO MODERATE OR LOW PHYSICAL
22 DEPENDENCE OR HIGH PSYCHOLOGICAL DEPENDENCE. THE FOLLOWING
23 CLASSES OF CONTROLLED SUBSTANCES ARE INCLUDED IN THIS SCHEDULE:

24 * * *

25 (VIII) GAMMA HYDROXYBUTYRIC ACID, ANY SALT, COMPOUND
26 DERIVATIVE OR PREPARATION OF GAMMA HYDROXYBUTYRIC ACID,
27 INCLUDING ANY ISOMERS, ESTERS AND ETHERS AND SALTS OF ISOMERS
28 AND ESTERS AND ETHERS OF GAMMA HYDROXYBUTYRIC ACID WHENEVER THE
29 EXISTENCE OF SUCH ISOMERS, ESTERS, ETHERS AND SALTS IS POSSIBLE
30 WITHIN THE SPECIFIC CHEMICAL DESIGNATION.

1 * * *

2 SECTION 2. SECTION 13(A)(34) OF THE ACT IS AMENDED AND THE
3 SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:

4 SECTION 13. PROHIBITED ACTS; PENALTIES.--(A) THE FOLLOWING
5 ACTS AND THE CAUSING THEREOF WITHIN THE COMMONWEALTH ARE HEREBY
6 PROHIBITED:

7 * * *

8 (34) THE PLACING IN ANY NEWSPAPER, MAGAZINE, HANDBILL OR
9 OTHER PUBLICATION OR BY WRITTEN OR ELECTRONIC MEANS, INCLUDING
10 ELECTRONIC MAIL, INTERNET, FACSIMILE AND SIMILAR TRANSMISSION,
11 ANY ADVERTISEMENT, KNOWING, OR UNDER CIRCUMSTANCES WHERE ONE
12 REASONABLY SHOULD KNOW, THAT THE PURPOSE OF THE ADVERTISEMENT,
13 IN WHOLE OR IN PART IS TO PROMOTE THE SALE OF OBJECTS DESIGNED
14 OR INTENDED FOR USE AS DRUG PARAPHERNALIA.

15 * * *

16 (N) ANY PERSON WHO VIOLATES SUBSECTION (A)(12), (14), (16),
17 (30) OR (34) WITH RESPECT TO GAMMA HYDROXYBUTYRIC ACID, ANY
18 SALT, COMPOUND DERIVATIVE OR PREPARATION OF GAMMA HYDROXYBUTYRIC
19 ACID, INCLUDING ANY ISOMERS, ESTERS AND ETHERS AND SALTS OF
20 ISOMERS, OR ESTERS AND ETHERS OF GAMMA HYDROXYBUTYRIC ACID
21 WHENEVER THE EXISTENCE OF SUCH ISOMERS, ESTERS, ETHERS OR SALTS
22 IS POSSIBLE WITHIN THE SPECIFIC CHEMICAL DESIGNATION, IS GUILTY
23 OF A FELONY AND UPON CONVICTION THEREOF SHALL BE SENTENCED TO
24 IMPRISONMENT NOT EXCEEDING FIFTEEN YEARS, OR TO PAY A FINE NOT
25 EXCEEDING TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000), OR
26 BOTH, OR SUCH LARGER AMOUNT AS IS SUFFICIENT TO EXHAUST THE
27 ASSETS UTILIZED IN AND THE PROFITS OBTAINED FROM THE ILLEGAL
28 ACTIVITY.

29 Section ~~2~~ 3. This act shall take effect immediately.

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