

BILL: **Am. H.B. 428**

DATE: **December 9, 1999**

STATUS: **As Enacted – Effective May 17, 2000**

SPONSOR: **Rep. Calvert**

LOCAL IMPACT STATEMENT REQUIRED: **Yes**

CONTENTS: **Adds GHB as a schedule II controlled substance and revises the state controlled substance schedules according to federal drug laws**

State Fiscal Highlights

STATE FUND	FY 2000	FY 2001	FUTURE YEARS
General Revenue Fund			
Revenues	Negligible gain	Negligible gain	Negligible gain
Expenditures	Potential minimal increase	Up to \$100,000 or more increase	Up to \$100,000 or more increase
Crime Victims Reparations Fund (Fund 402)			
Revenues	Negligible gain	Negligible gain	Negligible gain
Expenditures	- 0 -	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2000 is July 1, 1999 – June 30, 2000.

- DRC will incur additional expenditures for the incarceration and post-release control of felony drug offenders involved in the manufacture, possession, and trafficking of GHB. As GHB is currently not included in the schedule II list of substances prohibited in the drug manufacture, possession, and trafficking statutes, LBO assumes that these offenders do not currently receive prison sentences. Under the bill, the majority of these offenders would be convicted of a felony, with an unknown number of those offenders then being sentenced to prison.
- Negligible annual gains in revenue to the GRF and Crime Victims Reparations Fund will likely occur as a result of court cost revenue collected from additional criminal prosecutions and convictions.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2000	FY 2001	FUTURE YEARS
Counties			
Revenues	Negligible gain	Negligible gain	Negligible gain
Expenditures	Increases exceeding \$5,000 in certain jurisdictions	Increases exceeding \$5,000 in certain jurisdictions	Increases exceeding \$5,000 in certain jurisdictions

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- By adding GHB to the schedule II list of prohibited substances, offenders will be charged with manufacture, possession, and trafficking offenses, where they would not otherwise be charged with a crime under current law. Counties will likely experience increases in adjudication, prosecution, and indigent costs for these offenders in these cases. Jails will also likely experience an increase in incarceration expenditures for imprisoning some low-level



felons. These increases will vary by size of county and county caseload, but could be as much as a few thousand dollars in larger counties.

- Negligible annual gains in court costs and fine revenue to counties will likely occur as a result of court cost revenue collected from additional felony criminal prosecutions and convictions.

Detailed Fiscal Analysis

Provisions of the Bill

The bill essentially does two things:

1. Brings Ohio controlled substance law into conformity with federal law. Several miscellaneous changes are made regarding the addition of certain controlled substances to Ohio controlled substance law. These additions are currently included in federal law controlled substance law, and offenses involving these substances are relatively uncommon; therefore, LBO believes that these conforming provisions will have little fiscal impact on state and local government.
2. Adds gamma-hydroxy-butyrate (GHB) to Ohio's schedule II controlled substances. By doing so, the manufacture, possession, and trafficking in GHB become new felony offenses under the drug code.

GHB as a Drug of Abuse

According to the federal Drug Enforcement Administration (DEA), GHB is a euphoria-inducing depressant used primarily as a recreational drug. DEA also reports that the drug has been used as a sexual assault tool. The Ohio Pharmacy Board informed LBO that the drug is created using a common solvent (gamma-butyrolactone), which is legally and widely available on the internet and from other sources. The synthesis of GHB is described as a relatively easy, one-step process, requiring little specialized knowledge.

Extent of GHB Offenses

Information provided by the federal Drug Enforcement Agency (DEA) indicates that more than 3,500 cases of GHB abuse, overdose, possession, illegal manufacturing, illicit diversion, and trafficking have been reported to that agency since 1993. If we assume that that these 3,500 cases are evenly distributed across years, and that the offenses are evenly distributed by population, we arrive at the conclusion that Ohio experiences around 64 GHB-related offenses annually. This number is likely higher, because GHB has been increasing in popularity since 1993, and LBO assumes that the popularity of the drug, due to its ease of manufacture, will continue to increase. LBO assumes that there will likely be under new criminal 100 cases created statewide on an annual basis.

LBO assumes that some of these offenses, particularly sexual assault offenses involving GHB, are currently successfully prosecuted under existing assault and contamination statutes. However, we

assume that a significant number of these offenses are currently not successfully prosecuted, due to the gap in the law that the bill addresses.

State Fiscal Effects

DRC will incur additional expenditures for the incarceration and post-release control of felony drug offenders involved in the manufacture, possession, and trafficking of GHB. As GHB is currently not included in the schedule II list of substances prohibited in the drug manufacture, possession, and trafficking statutes, LBO assumes that these offenders do not currently receive prison sentences. Under the bill, the majority of these offenders would be convicted of a felony; some number of whom would be sentenced to prison.

We assume that most of these offenders will likely be low-level felony offenders, serving relatively short sentences. If LBO assumes that the marginal cost of imprisonment per offender per year is \$3,900, expenses could easily extend to \$100,000 or more if even 35 additional offenders spend one year in prison (35 offenders x \$3,900 = \$136,500).

Local Fiscal Effects

By adding GHB to the schedule II list of prohibited substances, offenders will be charged with a variety of offenses, including:

- Aggravated trafficking in drugs. Penalties for this offense are dependent upon the amount of the drug involved, but can range from fourth-degree felony penalties to first-degree felony penalties.
- Illegal manufacture of drugs. This offense is a second-degree felony.
- Aggravated possession of drugs. Penalties for this offense are dependent upon the amount of the drug involve, but can range from fifth-degree felony penalties to first-degree felony penalties.
- Funding of drug activity. This offense is a first-degree felony.
- Preparation of drugs for sale. This offense can be either a fourth- or third-degree penalty depending on the proximity of the offense to a school.

These offenses are generally felonies, and LBO assumes that there will be many offenders charged with these and other offenses where they would not otherwise be charged with a crime under current law. Counties will likely experience increases in adjudication, prosecution, and indigent costs for these offenders in these cases.

Jails will also likely experience an increase in incarceration expenditures for imprisoning some low-level felons. These increases will vary by size of county and county caseload, but could be as much as a few thousand dollars in larger counties.

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