

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1932

SPONSOR: Criminal Justice Committee and Senator Laurent

SUBJECT: Drug Trafficking Program/Orange County

DATE: April 11, 2001 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger/Erickson	Cannon	CJ	Favorable/CS
2.	_____	_____	APJ	_____
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Committee Substitute for Senate Bill 1932 authorizes the Orange County Sheriff’s Office to create and supervise a 3-year pilot program in Orange County to target and intercept the illegal shipment of controlled substances via package-delivery services. The Sheriff’s Office is required to submit a formal report of its findings to the Legislature by May 1, 2004.

The CS provides that a person commits a third degree felony by *willfully* keeping or maintaining or *willfully* aiding or abetting another to keep or maintain a public nuisance consisting of a store, warehouse, dwelling, building, vehicle, ship, boat, vessel, or any other place, which is visited for the purpose of obtaining illegal drugs or which is used to keep, sell, or deliver illegal drugs. Conforming changes are made to s. 832.01, F.S.

The CS clarifies current exceptions to unlawful possession and use of nitrous oxide, such as in the treatment of a disease or injury by a licensed practitioner. The CS moves the exceptions provision to a part of the section separate and apart from the provision that prohibits, among other things, the knowing sale or distribution of more than 16 grams of nitrous oxide.

The CS adds to Schedule I of the controlled substance schedules several sedative-type or depressant drugs: 1, 4 butanediol, gamma-butyrolactone (GBL), and gamma-hydroxybutyric acid (GHB); groups methaqualone (Quaaludes) and mecloqualone, which are currently listed in Schedule II, with the other drugs; deletes current Schedule II references for 1, 4 butanediol and GHB, and adds to Schedule III any drug product containing GHB for which an application is approved under s. 505 of the Federal Food, Drug, and Cosmetic Act.

The CS also adds to Schedule I the drug 4-methoxymethamphetamine, a phenethylamine, and deletes its current Schedule II reference.

The CS lists as precursors chemicals two chemicals used in the synthesis of methamphetamines: chloroephedrine and chloropseudoephedrine.

Finally, the CS creates offenses for trafficking in GBL and LSD. The applicable GBL and LSD trafficking penalties: 1st degree felony with 3, 7, or 15-year mandatory term (depending on the amount trafficked), or a capital felony, if 150 kilos or more of GBL or 7 grams or more of LSD are manufactured or imported and such manufacture or importation results in the death of a person.

The CS creates an unnumbered section of the Florida Statutes and amends ss. 823.01; 823.10; 877.111; 893.03; 893.033; and 893.135, F.S.

II. Present Situation:

Transporting Controlled Substances Through Delivery Services

According to the Orange County Sheriff's Office, drug traffickers are using overnight delivery services such as Federal Express, the United Parcel Service, and the U.S. Postal Service to transport controlled substances into Central Florida. This method of transporting drugs has proven inexpensive, relatively undetectable, and very effective for drug dealers. For law enforcement, it can be a frustrating process.

If a trained dog detects drugs in a package at Federal Express, for example, law enforcement must get the suspected drugs tested, obtain a search warrant, and send an agent to deliver the package in order to arrest the person receiving the drugs. The guaranteed delivery times of these companies make it difficult for law enforcement to obtain a timely search warrant and still deliver the package containing the illegal drugs to the dealers on time. If the delivery is late, the drug dealers become suspicious and will not accept the package.

According to the Orange County Sheriff's Office, the Los Angeles Police Department's Parcel Interception Unit (five to eleven agents) intercepted more than 3,200 parcels, seized \$7.75 million in cash, 470 pounds of cocaine, and 32,000 pounds of cannabis, as well as other illegal drugs during the time period from 1995 through 1999.

Public Nuisances Involving Places Where Illegal Drug Activities Occur

Section 823.10, F.S., provides that any store, shop, warehouse, building, vehicle, ship, boat, vessel, or aircraft, or any other place, visited by persons to illegally use controlled substances or used to illegally keep, sell or deliver controlled substances, is a public nuisance. This section prohibits such public nuisance and aiding or abetting another in keeping or maintaining such public nuisance.

An injunction for the abatement of such public nuisance can be brought under ch. 60, F.S. Although this section does not provide a criminal penalty for this public nuisance, s. 823.01, F.S., provides that all nuisances that tend to annoy the community or injure the health of the citizens in general, or to corrupt the public morals, are second degree misdemeanors.

Exceptions to Unlawful Acts Involving Nitrous Oxide

Section 877.111, F.S., criminalizes knowing distribution, sale, purchase, transfer, or possession of more than 16 grams of nitrous oxide. Numerous exceptions for legitimate distribution, sale, purchase, transfer or possession apply, such as when used by specified, licensed practitioners, as a food processing propellant, or in the production of chemicals used to inflate air bags.

Scheduling of Certain Controlled Substances

Section 893.03, F.S., contains the schedules for controlled substances. Methaqualone (Quaaludes) and mecloqualone are Schedule I drugs. The drugs 1, 4 Butanediol and gamma-hydroxybutyric acid (GHB) are Schedule II drugs. Gamma-butyrolactone (GBL), which converts into GHB when ingested, is not specifically listed in the schedules, but is a Schedule II ester. All of these drugs can generally be described as sedative-type or depressant drugs. While GHB is being researched to determine its possible efficacy in the treatment of narcolepsy, its most visible profile is in its illegal use to incapacitate women to commit sexual battery upon them. All of the drugs noted enjoy some popularity with multi-substance abusers and have been profiled in numerous news stories involving their use at rave clubs and other venues.

The synthetic drug 4-methoxymethamphetamine, which is currently a Schedule II controlled substance, is listed with a number of other phenethylamines (including MDMA or “Ecstasy” and other homologous substances).

Precursor Chemicals

Section 893.033, F.S., lists numerous precursor chemicals which are chemicals that may be used in manufacturing a controlled substance and are critical to the creation of the controlled substance. Chloroephedrine and chloropseudoephedrine, which are used in the synthesis of methamphetamine, an amphetaminelike compound produced in illegal drug laboratories, are not presently listed in s. 893.033, F.S., though ephedrine and variants of substituted ephedrine are listed.

Trafficking Statute

Section 893.135, F.S., proscribes trafficking in various, specified controlled substances. Mandatory penalties prescribed for trafficking offenses graduate based upon the type and amount of the trafficked controlled substance. Trafficking in phenethylamines is proscribed, but 4-methoxymethamphetamine, a phenethylamine, is not presently listed in the trafficking statute. Further, there is presently no offense for trafficking in GBL or LSD.

III. Effect of Proposed Changes:

The CS provides a Legislative finding that drug traffickers are increasingly using package-delivery services to illegally transport controlled substances into Florida. Accordingly, the CS authorizes the Orange County Sheriff’s Office to create and supervise a 3-year pilot program in Orange County to target and intercept the illegal shipment of controlled substances via package-

delivery services. The Sheriff's Office is required to submit a formal report of its findings to the Legislature by May 1, 2004.

The CS amends s. 823.10, F.S., to provide that a person commits a third degree felony by *willfully* keeping or maintaining or *willfully* aiding or abetting another to keep or maintain a public nuisance consisting of a store, warehouse, dwelling, building, vehicle, ship, boat, vessel, or any other place, which is visited for the purpose of obtaining illegal drugs or which is used to keep, sell, or deliver illegal drugs. Conforming changes are made to s. 832.01, F.S.

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The CS amends s. 893.03, F.S., to add to Schedule I several sedative-type or depressant drugs: 1, 4 butanediol, gamma-butyrolactone (GBL), and gamma-hydroxybutyric acid (GHB); group methaqualone (Quaaludes) and mecloqualone, which are currently listed in Schedule II, with the other drugs; delete current Schedule II references for 1, 4 butanediol and GHB, and add to Schedule III any drug product containing GHB for which an application is approved under s. 505 of the Federal Food, Drug, and Cosmetic Act.

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IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

There will be an indeterminate positive fiscal impact upon the public to whatever extent this bill stops drug trafficking in Orange County.

C. Government Sector Impact:

According to the Orange County Sheriff's Office, it will commit the resources to implement this pilot program.

The scheduling and penalty provisions of this legislation have not yet been reviewed or analyzed by the Criminal Justice Estimating Conference for possible prison bed impact, but it appears that the impact would be relatively insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.