

106TH CONGRESS
1ST SESSION

H. R. 3457

To amend the Controlled Substances Act to direct the emergency scheduling of gamma hydroxybutyric acid, to provide for a national awareness campaign, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 18, 1999

Mr. UPTON (for himself, Mr. STUPAK, Ms. JACKSON-LEE of Texas, Mr. BILLEY, and Mr. ROEMER) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Controlled Substances Act to direct the emergency scheduling of gamma hydroxybutyric acid, to provide for a national awareness campaign, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Hillary J. Farias and
5 Samantha Reid Date-Rape Drug Prohibition Act of
6 1999”.

1 **SEC. 2. FINDINGS.**

2 Congress finds as follows:

3 (1) Gamma hydroxybutyric acid (also called G,
4 Liquid X, Liquid Ecstasy, Grievous Bodily Harm,
5 Georgia Home Boy, Scoop) has become a significant
6 and growing problem in law enforcement. At least
7 20 States have scheduled such drug in their drug
8 laws and law enforcement officials have been experi-
9 encing an increased presence of the drug in driving
10 under the influence, sexual assault, and overdose
11 cases especially at night clubs and parties.

12 (2) A behavioral depressant and a hypnotic,
13 gamma hydroxybutyric acid (“GHB”) is being used
14 in conjunction with alcohol and other drugs with
15 detrimental effects in an increasing number of cases.
16 It is difficult to isolate the impact of such drug’s in-
17 gestion since it is so typically taken with an ever-
18 changing array of other drugs and especially alcohol
19 which potentiates its impact.

20 (3) GHB takes the same path as alcohol, proc-
21 esses via alcohol dehydrogenase, and its symptoms
22 at high levels of intake and as impact builds are
23 comparable to alcohol ingestion/intoxication. Thus,
24 aggression and violence can be expected in some in-
25 dividuals who use such drug.

1 (4) If taken for human consumption, common
2 industrial chemicals such as gamma butyrolactone
3 and 1.4-butanediol are swiftly converted by the body
4 into GHB. Illicit use of these and other GHB ana-
5 logues and precursor chemicals is a significant and
6 growing law enforcement problem.

7 (5) A human pharmaceutical formulation of
8 gamma hydroxybutyric acid is being developed as a
9 treatment for cataplexy, a serious and debilitating
10 disease. Cataplexy, which causes sudden and total
11 loss of muscle control, affects about 65 percent of
12 the estimated 180,000 Americans with narcolepsy, a
13 sleep disorder. People with cataplexy often are un-
14 able to work, drive a car, hold their children or live
15 a normal life.

16 (6) Abuse of illicit GHB is an imminent hazard
17 to public safety that requires immediate regulatory
18 action under the Controlled Substances Act (21
19 U.S.C. 801 et seq.).

20 **SEC. 3. EMERGENCY SCHEDULING OF GAMMA HYDROXY-**
21 **BUTYRIC ACID AND LISTING OF GAMMA BU-**
22 **TYROLACTONE AS LIST I CHEMICAL.**

23 (a) EMERGENCY SCHEDULING OF GHB.—

24 (1) IN GENERAL.—The Congress finds that the
25 abuse of illicit gamma hydroxybutyric acid is an im-

1 minent hazard to the public safety. Accordingly, the
2 Attorney General, notwithstanding sections 201(a),
3 201(b), 201(c), and 202 of the Controlled Sub-
4 stances Act, shall issue, not later than 60 days after
5 the date of the enactment of this Act, a final order
6 that schedules such drug (together with its salts, iso-
7 mers, and salts of isomers) in the same schedule
8 under section 202(c) of the Controlled Substances
9 Act as would apply to a scheduling of a substance
10 by the Attorney General under section 201(h)(1) of
11 such Act (relating to imminent hazards to the public
12 safety), except as follows:

13 (A) For purposes of any requirements that
14 relate to the physical security of registered
15 manufacturers and registered distributors, the
16 final order shall treat such drug, when the drug
17 is manufactured, distributed, or possessed in
18 accordance with an exemption under section
19 505(i) of the Federal Food, Drug, and Cos-
20 metic Act (whether the exemption involved is
21 authorized before, on, or after the date of the
22 enactment of this Act), as being in the same
23 schedule as that recommended by the Secretary
24 of Health and Human Services for the drug
25 when the drug is the subject of an authorized

1 investigational new drug application (relating to
2 such section 505(i)). The recommendation re-
3 ferred to in the preceding sentence is contained
4 in the first paragraph of the letter transmitted
5 on May 19, 1999, by such Secretary (acting
6 through the Assistant Secretary for Health) to
7 the Attorney General (acting through the Dep-
8 uty Administrator of the Drug Enforcement
9 Administration), which letter was in response to
10 the letter transmitted by the Attorney General
11 (acting through such Deputy Administrator) on
12 September 16, 1997. In publishing the final
13 order in the Federal Register, the Attorney
14 General shall publish a copy of the letter that
15 was transmitted by the Secretary of Health and
16 Human Services.

17 (B) In the case of gamma hydroxybutyric
18 acid that is contained in a drug product for
19 which an application is approved under section
20 505 of the Federal Food, Drug, and Cosmetic
21 Act (whether the application involved is ap-
22 proved before, on, or after the date of the en-
23 actment of this Act), the final order shall
24 schedule such drug in the same schedule as that
25 recommended by the Secretary of Health and

1 Human Services for authorized formulations of
2 the drug. The recommendation referred to in
3 the preceding sentence is contained in the last
4 sentence of the fourth paragraph of the letter
5 referred to in subparagraph (A) with respect to
6 May 19, 1999.

7 (2) FAILURE TO ISSUE ORDER.—If the final
8 order is not issued within the period specified in
9 paragraph (1), gamma hydroxybutyric acid (together
10 with its salts, isomers, and salts of isomers) is
11 deemed to be scheduled under section 202(c) of the
12 Controlled Substances Act in accordance with the
13 policies described in paragraph (1), as if the Attor-
14 ney General had issued a final order in accordance
15 with such paragraph.

16 (b) ADDITIONAL PENALTIES RELATING TO GHB.—

17 (1) CONTROLLED SUBSTANCES ACT.—

18 (A) IN GENERAL.—Section 401(b)(1)(C) of
19 the Controlled Substances Act (21 U.S.C.
20 841(b)(1)(C)) is amended in the first sentence
21 by inserting after “schedule I or II,” the fol-
22 lowing: “gamma hydroxybutyric acid (including
23 when scheduled as an approved drug product
24 for purposes of section 3(a)(1)(B) of the Hillory

1 J. Farias and Samantha Reid Date-Rape Drug
2 Prohibition Act of 1999),”.

3 (B) CONFORMING AMENDMENT.—Section
4 401(b)(1)(D) of the Controlled Substances Act
5 (21 U.S.C. 841(b)(1)(D)) is amended by strik-
6 ing “, or 30” and inserting “(other than
7 gamma hydroxybutyric acid), or 30”.

8 (2) CONTROLLED SUBSTANCES IMPORT AND
9 EXPORT ACT.—

10 (A) IN GENERAL.—Section 1010(b)(3) of
11 the Controlled Substances Import and Export
12 Act (21 U.S.C. 960(b)(3)) is amended in the
13 first sentence by inserting after “I or II,” the
14 following: “gamma hydroxybutyric acid (includ-
15 ing when scheduled as an approved drug prod-
16 uct for purposes of section 3(a)(1)(B) of the
17 Hillory J. Farias and Samantha Reid Date-
18 Rape Drug Prohibition Act of 1999),”.

19 (B) CONFORMING AMENDMENT.—Section
20 1010(b)(4) of the Controlled Substances Import
21 and Export Act (21 U.S.C. 960(b)(4)) is
22 amended by striking “flunitrazepam)” and in-
23 serting the following: “flunitrazepam and except
24 a violation involving gamma hydroxybutyric
25 acid)”.

1 (c) GAMMA BUTYROLACTONE AS ADDITIONAL LIST
2 I CHEMICAL.—Section 102(34) of the Controlled Sub-
3 stances Act (21 U.S.C. 802(34)) is amended—

4 (1) by redesignating subparagraph (X) as sub-
5 paragraph (Y); and

6 (2) by inserting after subparagraph (W) the fol-
7 lowing subparagraph:

8 “(X) Gamma butyrolactone.”

9 **SEC. 4. AUTHORITY FOR ADDITIONAL REPORTING RE-**
10 **QUIREMENTS FOR GAMMA HYDROXYBUTYRIC**
11 **PRODUCTS IN SCHEDULE III.**

12 Section 307 of the Controlled Substances Act (21
13 U.S.C. 827) is amended by adding at the end the fol-
14 lowing:

15 “(h) In the case of a drug product containing gamma
16 hydroxybutyric acid for which an application has been ap-
17 proved under section 505 of the Federal Food, Drug, and
18 Cosmetic Act, the Attorney General may, in addition to
19 any other requirements that apply under this section with
20 respect to such a drug product, establish any of the fol-
21 lowing as reporting requirements:

22 “(1) That every person who is registered as a
23 manufacturer of bulk or dosage form, as a packager,
24 repackager, labeler, relabeler, or distributor shall re-
25 port acquisition and distribution transactions quar-

1 terly, not later than the 15th day of the month suc-
2 ceeding the quarter for which the report is sub-
3 mitted, and annually report end-of-year inventories.

4 “(2) That all annual inventory reports shall be
5 filed no later than January 15 of the year following
6 that for which the report is submitted and include
7 data on the stocks of the drug product, drug sub-
8 stance, bulk drug, and dosage forms on hand as of
9 the close of business December 31, indicating wheth-
10 er materials reported are in storage or in process of
11 manufacturing.

12 “(3) That every person who is registered as a
13 manufacturer of bulk or dosage form shall report all
14 manufacturing transactions of both inventory in-
15 creases, including purchases, transfers, and returns,
16 and reductions from inventory, including sales,
17 transfers, theft, destruction, and seizure, and shall
18 provide data on material manufactured, manufac-
19 tured from other material, use in manufacturing
20 other material, and use in manufacturing dosage
21 forms.

22 “(4) That all reports under this section must
23 include the registered person’s registration number
24 as well as the registration numbers, names, and
25 other identifying information of vendors, suppliers,

1 and customers, sufficient to allow the Attorney Gen-
2 eral to track the receipt and distribution of the drug.

3 “(5) That each dispensing practitioner shall
4 maintain for each prescription the name of the pre-
5 scribing practitioner, the prescribing practitioner’s
6 Federal and State registration numbers, with the ex-
7 piration dates of these registrations, verification that
8 the prescribing practitioner possesses the appro-
9 priate registration to prescribe this controlled sub-
10 stance, the patient’s name and address, the name of
11 the patient’s insurance provider and documentation
12 by a medical practitioner licensed and registered to
13 prescribe the drug of the patient’s medical need for
14 the drug. Such information shall be available for in-
15 spection and copying by the Attorney General.

16 “(6) That section 310(b)(3) (relating to mail
17 order reporting) applies with respect to gamma hy-
18 droxybutyric acid to the same extent and in the
19 same manner as such section applies with respect to
20 the chemicals and drug products specified in sub-
21 paragraph (A)(i) of such section.”.

22 **SEC. 5. CONTROLLED SUBSTANCES ANALOGUES.**

23 (a) **RULE OF CONSTRUCTION REGARDING CON-**
24 **TROLLED SUBSTANCES ANALOGUES.**—Section 102(32) of

1 the Controlled Substances Act (21 U.S.C. 802(32)) is
2 amended—

3 (1) in subparagraph (A), by striking “subpara-
4 graph (B)” and inserting “subparagraph (C)”;

5 (2) by redesignating subparagraph (B) as sub-
6 paragraph (C); and

7 (3) by inserting after subparagraph (A) the fol-
8 lowing new subparagraph (B):

9 “(B) The designation of gamma butyrolactone or any
10 other chemical as a listed chemical pursuant to paragraph
11 (34) or (35) does not preclude a finding pursuant to sub-
12 paragraph (A) of this paragraph that the chemical is a
13 controlled substance analogue.”.

14 (b) DISTRIBUTION WITH INTENT TO COMMIT CRIME
15 OF VIOLENCE.—Section 401(b)(7)(A) of the Controlled
16 Substances Act (21 U.S.C. 841(b)(7)(A)) is amended by
17 inserting “or controlled substance analogue” after “dis-
18 tributing a controlled substance”.

1 **SEC. 6. DEVELOPMENT OF MODEL PROTOCOLS, TRAINING**
2 **MATERIALS, FORENSIC FIELD TESTS, AND**
3 **COORDINATION MECHANISM FOR INVESTIGA-**
4 **TIONS AND PROSECUTIONS RELATING TO**
5 **GAMMA HYDROXYBUTYRIC ACID, OTHER**
6 **CONTROLLED SUBSTANCES, AND DESIGNER**
7 **DRUGS.**

8 (a) IN GENERAL.—The Attorney General, in con-
9 sultation with the Administrator of the Drug Enforcement
10 Administration and the Director of the Federal Bureau
11 of Investigation, shall—

12 (1) develop—

13 (A) model protocols for the collection of
14 toxicology specimens and the taking of victim
15 statements in connection with investigations
16 into and prosecutions related to possible viola-
17 tions of the Controlled Substances Act or other
18 Federal or State laws that result in or con-
19 tribute to rape, other crimes of violence, or
20 other crimes involving abuse of gamma hydrox-
21 ybutyric acid, other controlled substances, or
22 so-called “designer drugs”; and

23 (B) model training materials for law en-
24 forcement personnel involved in such investiga-
25 tions; and

1 (2) make such protocols and training materials
2 available to Federal, State, and local personnel re-
3 sponsible for such investigations.

4 (b) GRANT.—

5 (1) IN GENERAL.—The Attorney General shall
6 make a grant, in such amount and to such public or
7 private person or entity as the Attorney General
8 considers appropriate, for the development of foren-
9 sic field tests to assist law enforcement officials in
10 detecting the presence of gamma hydroxybutyric
11 acid and related substances.

12 (2) AUTHORIZATION OF APPROPRIATIONS.—
13 There are authorized to be appropriated such sums
14 as may be necessary to carry out this subsection.

15 (c) REPORT.—Not later than 180 days after the date
16 of the enactment of this Act, the Attorney General shall
17 submit to the Committees on the Judiciary of the Senate
18 and House of Representatives a report on current mecha-
19 nisms for coordinating Federal, State, and local investiga-
20 tions into and prosecutions related to possible violations
21 of the Controlled Substances Act or other Federal or State
22 laws that result in or contribute to rape, other crimes of
23 violence, or other crimes involving the abuse of gamma
24 hydroxybutyric acid, other controlled substances, or so-

1 called “designer drugs”. The report shall also include rec-
2 ommendations for the improvement of such mechanisms.

3 **SEC. 7. ANNUAL REPORT REGARDING DATE-RAPE DRUGS;**
4 **NATIONAL AWARENESS CAMPAIGN.**

5 (a) ANNUAL REPORT.—The Secretary of Health and
6 Human Services (in this section referred to as the “Sec-
7 retary”) shall periodically submit to Congress reports each
8 of which provides an estimate of the number of incidents
9 of the abuse of date-rape drugs (as defined in subsection
10 (c)) that occurred during the most recent one-year period
11 for which data are available. The first such report shall
12 be submitted not later than January 15, 2000, and subse-
13 quent reports shall be submitted annually thereafter.

14 (b) NATIONAL AWARENESS CAMPAIGN.—

15 (1) DEVELOPMENT OF PLAN; RECOMMENDA-
16 TIONS OF ADVISORY COMMITTEE.—

17 (A) IN GENERAL.—The Secretary, in con-
18 sultation with the Attorney General, shall de-
19 velop a plan for carrying out a national cam-
20 paign to educate individuals described in sub-
21 paragraph (B) on the following:

22 (i) The dangers of date-rape drugs.

23 (ii) The applicability of the Controlled
24 Substances Act to such drugs, including
25 penalties under such Act.

1 (iii) Recognizing the symptoms that
2 indicate an individual may be a victim of
3 such drugs, including symptoms with re-
4 spect to sexual assault.

5 (iv) Appropriately responding when an
6 individual has such symptoms.

7 (B) INTENDED POPULATION.—The individ-
8 uals referred to in subparagraph (A) are young
9 adults, youths, law enforcement personnel, edu-
10 cators, school nurses, counselors of rape vic-
11 tims, and emergency room personnel in hos-
12 pitals.

13 (C) ADVISORY COMMITTEE.—Not later
14 than 180 days after the date of the enactment
15 of this Act, the Secretary shall establish an ad-
16 visory committee to make recommendations to
17 the Secretary regarding the plan under sub-
18 paragraph (A). The committee shall be com-
19 posed of individuals who collectively possess ex-
20 pertise on the effects of date-rape drugs and on
21 detecting and controlling the drugs.

22 (2) IMPLEMENTATION OF PLAN.—Not later
23 than 180 days after the date on which the advisory
24 committee under paragraph (1) is established, the
25 Secretary, in consultation with the Attorney General,

1 shall commence carrying out the national campaign
2 under such paragraph in accordance with the plan
3 developed under such paragraph. The campaign may
4 be carried out directly by the Secretary and through
5 grants and contracts.

6 (3) EVALUATION BY GENERAL ACCOUNTING OF-
7 FICE.—Not later than two years after the date on
8 which the national campaign under paragraph (1) is
9 commenced, the Comptroller General of the United
10 States shall submit to Congress an evaluation of the
11 effects with respect to date-rape drugs of the na-
12 tional campaign.

13 (c) DEFINITION.—For purposes of this section, the
14 term “date-rape drugs” means gamma hydroxybutyric
15 acid and its salts, isomers, and salts of isomers and such
16 other drugs or substances as the Secretary, after consulta-
17 tion with the Attorney General, determines to be appro-
18 priate.

19 **SEC. 8. SPECIAL UNIT IN DRUG ENFORCEMENT ADMINIS-**
20 **TRATION FOR ASSESSMENT OF ABUSE AND**
21 **TRAFFICKING OF GHB AND OTHER CON-**
22 **TROLLED SUBSTANCES AND DRUGS.**

23 (a) ESTABLISHMENT.—Not later than 60 days after
24 the date of the enactment of this Act, the Attorney Gen-
25 eral shall establish within the Operations Division of the

1 Drug Enforcement Administration a special unit which
2 shall assess the abuse of and trafficking in gamma hydrox-
3 ybutyric acid, flunitrazepam, ketamine, other controlled
4 substances, and other so-called “designer drugs” whose
5 use has been associated with sexual assault.

6 (b) PARTICULAR DUTIES.—In carrying out the as-
7 sessment under subsection (a), the special unit shall—

8 (1) examine the threat posed by the substances
9 and drugs referred to in that subsection on a na-
10 tional basis and regional basis; and

11 (2) make recommendations to the Attorney
12 General regarding allocations and reallocations of re-
13 sources in order to address the threat.

14 (c) REPORT ON RECOMMENDATIONS.—

15 (1) REQUIREMENT.—Not later than 180 days
16 after the date of the enactment of this Act, the At-
17 torney General shall submit to the Committees on
18 the Judiciary of the Senate and House of Represent-
19 atives a report which shall—

20 (A) set forth the recommendations of the
21 special unit under subsection (b)(2); and

22 (B) specify the allocations and realloca-
23 tions of resources that the Attorney General
24 proposes to make in response to the rec-
25 ommendations.

1 (2) TREATMENT OF REPORT.—Nothing in para-
2 graph (1) may be construed to prohibit the Attorney
3 General or the Administrator of the Drug Enforce-
4 ment Administration from making any reallocation
5 of existing resources that the Attorney General or
6 the Administrator, as the case may be, considers ap-
7 propriate.

8 **SEC. 9. TECHNICAL AMENDMENT.**

9 Section 401 of the Controlled Substances Act (21
10 U.S.C. 841) is amended by redesignating subsections (d),
11 (e), (f), and (g) as subsections (e), (d), (e), and (f), respec-
12 tively.

○