

HOUSE RESEARCH

Bill Summary

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Overview

This bill strengthens penalties already in place as well as introduces new crimes and programs concerning the possession and sale of methamphetamine and its precursors. Specifically, the bill: exempts industrial uses of GBL and BDO from the controlled substances schedules; establishes a surcharge for drug related crimes; increases the penalty for possession of certain substances with intent to manufacture methamphetamine; requires restitution in cases where the crime required an emergency response due to the presence of dangerous chemicals; requires notification of county health officials of clandestine lab sites; requires remediation of lab sites prior to re-occupation of the land or property; establishes requirements and penalties relating to over-the-counter sales of methamphetamine precursors; creates two new crimes related to the illegal use of anhydrous ammonia; criminalizes various methamphetamine-related activities that may impact children or vulnerable adults; creates a methamphetamine awareness and educational account; establishes a methamphetamine laboratory cleanup revolving fund; requests a report from the legislative auditor; and appropriates funds to various agencies.

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- 1** **GBL and BDO.** Exempts the chemicals GBL and BDO from the controlled substances schedules when the chemicals are in their natural concentration or intended for industrial

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use (as opposed to human consumption). [Effective August 1, 2005, for crimes committed on or after that date.]

- 2 Surcharge on violations of this chapter.** Imposes a surcharge of \$50 when a court sentences a person convicted of an offense under Chapter 152 (Drugs, Controlled Substances). The surcharge can only be waived if the court makes findings that the defendant is indigent or the surcharge would create an undue hardship on the defendant or the defendant's family. Within 60 days of sentencing, the county must collect and forward the surcharge to the commissioner of finance, who shall credit the money to the Methamphetamine Awareness and Educational Account under section 10. [Effective July 1, 2005, for crimes committed on or after that date.]
- 3 Methamphetamine manufacture crime; possession of substances with intent to manufacture methamphetamine crime.** Amends the attempted manufacture of methamphetamine crime to clarify that this crime is not an "attempt crime" but rather a crime of possession of "any chemical reagents or precursors with the intent to manufacture methamphetamine." Strikes the cross-referenced definition of "anhydrous ammonia." [Effective August 1, 2005, for crimes committed on or after that date.]
- 4 Penalty.** Increases the maximum criminal penalty for a violation of section 3 from a three-year/\$5,000 felony to a ten-year/\$20,000 felony and for a repeat offense from a four-year/\$5,000 felony to a 15-year/\$30,000 felony. [Effective August 1, 2005, for crimes committed on or after that date.]
- 5 Certain controlled substance offenses; restitution; prohibitions on property use.**

Subd. 1. Restitution. Requires restitution from persons convicted of manufacturing or attempting to manufacture a controlled substance or of illegal activities involving precursors where the response to the crime involved an emergency response. The restitution goes to the public entities and property owners who participated in the response. The court may reduce the restitution if the convicted person is indigent or the restitution payment would create an undue hardship for the convicted person's immediate family.

Subd. 2. Property-related prohibitions; web site. Mandates that police officers who arrest a person at a clandestine lab site notify the appropriate county or local health department, state duty officer, and child protection services of the arrest and the location of the site. Requires that county or local health departments or sheriffs prohibit all clandestine property from being occupied, rented, sold, or used until it has been assessed and remediated. Specifies the process for remediation, including the circumstances under which the applicable authority must vacate its property use restriction order. The registrar of motor vehicles must be notified when a motor vehicle has been contaminated and also when the authority vacates its order.

Requires that the commissioner of health create and maintain a web site with contact information for each local community health services administrator. The administrator must maintain information relating to contaminated property within its jurisdiction, including the location of the property, the extent of contamination, the remediation status, and the status of the order. This information is public. [Effective August 1, 2005, for crimes committed on or after that date.]

- 6 Exceptions.** Amends the current ephedrine statute to add a cross-reference to section 7.

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[Effective August 1, 2005, for crimes committed on or after that date.]

7 Sales of methamphetamine precursor drugs; criminal penalties; reporting.

Subd. 1. Definitions. Defines methamphetamine precursor drugs, over-the-counter sale, non-single-source drugs, single-source drugs, and suspicious transaction.

Subd. 2. Prohibited conduct. Establishes requirements relating to over-the-counter sale of methamphetamine precursor drugs. Places limitations on the amount of precursor drugs that may be sold in a single over-the-counter sale. Sets forth options for business establishments to follow when selling single-source methamphetamine precursor drugs. The business must do one of the following: (1) place all drugs behind the counter, inside a locked display, or within ten feet of an attended checkout counter; (2) utilize an electronic antitheft system having a product tag and detection alarm; or (3) prohibit the sale of precursor drugs to those under 18.

Subd. 3. Criminal penalty. A knowing violation of subdivision 2 results in a misdemeanor and imprisonment of no more than 90 days or a fine of not more than \$1,000 or both.

Subd. 4. Exception to criminal penalty. Exempts business owners from being vicariously liable under subdivision 3 for the acts of employees, as long as the owner trained the employee on federal and state laws and the owner did not know of, participate in, or direct the employee to commit the prohibited conduct. Creates an exception to subdivision 3 for selling precursor drugs that are manufactured in a manner that prevents their use in methamphetamine manufacturing.

Subd. 5. Suspicious transactions; reporting; immunity. Suspicious transactions must be reported by any person employed by a business establishment to the owner, supervisor, or manager who in turn may report the transaction to local law enforcement. A person who reports in good faith is immune from civil liability relating to the report.

Subd. 6. Exemption. Exempts lawfully-labeled pediatric products from the scope of this section.

Subd. 7. Effect on local ordinances. The section pre-empts local ordinances regulating the sale of the covered products.

[Effective August 1, 2005, for crimes committed on or after that date.]

8 Anhydrous ammonia; prohibited conduct; criminal penalties; civil liability.

Subd. 1. Definitions. Defines the term "tamper."

Subd. 2. Prohibited conduct. Recodifies the prohibited fertilizer activities currently

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codified in Minnesota Statutes, sections 18C.201 and 18D.331. (These provisions are repealed in section 16.) A person may not steal, unlawfully take or carry away any amount of anhydrous ammonia; or purchase, possess, transfer or distribute any amount of anhydrous ammonia knowing or having reason to know that it will be used to unlawfully manufacture a controlled substance. Includes requirements for containing and transporting anhydrous ammonia.

Subd. 3. No cause of action. Prohibits a person who is injured while tampering with a container storing anhydrous ammonia to seek damages from a person who is the rightful owner of the container.

Subd. 4. Criminal penalty. A knowing violation of these provisions results in a felony and imprisonment of no more than five years or a fine of not more than \$50,000 or both.

[Effective August 1, 2005, for crimes committed on or after that date.]

9 Methamphetamine-related crimes involving children and vulnerable adults.

Subd. 1. Definitions. Defines chemical substance, child, methamphetamine paraphernalia, methamphetamine waste products, and vulnerable adult.

Subd. 2. Prohibited conduct. Criminalizes various methamphetamine-related activities that may impact children or vulnerable adults. Prohibited conduct includes knowingly engaging in manufacturing or attempting to manufacture methamphetamine, storing any chemical substance, storing any methamphetamine waste products, or storing any methamphetamine paraphernalia in the presence of a child or a vulnerable adult. These activities are prohibited in the residence, building, structure, conveyance, or outdoor location, in a room offered to the public for overnight accommodation or any multiple unit residential building where a child or vulnerable adult may reasonably be. Also prohibits person from knowingly causing or permitting a child or vulnerable adult to inhale, be exposed to, have contact with, or ingest methamphetamine, a chemical substance, or methamphetamine paraphernalia.

Subd. 3. Criminal penalty. Violation of these provisions results in a felony and imprisonment of not more than five years or a fine of not more than \$10,000 or both.

Subd. 4. Multiple sentences. A sentence under this section is not a bar to a sentence for any other crime committed by the defendant as part of the same conduct.

Subd. 5. Protective custody. Police officers may take children who are found in areas where prohibited activities are taking place into protective custody. Requires children taken into protective custody to undergo health screening assessments.

Subd. 6. Reporting maltreatment of vulnerable adult. Proposes reporting obligations for police officers and mandated reporters for vulnerable adults who were exposed to a methamphetamine lab. Instructs county entry point staff and county social service agency staff how to respond to a police report indicating a vulnerable

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adult has been exposed to a methamphetamine lab. Emphasizes that law enforcement is the primary agency to conduct crime investigations. Provides that law enforcement shall respond immediately and cooperate with county agencies. County adult protection and social services shall also respond immediately.

[Effective August 1, 2005, for crimes committed on or after that date.]

10 Methamphetamine awareness and educational account. Creates a methamphetamine awareness and educational account as a special revenue account in the state treasury. The state may accept contributions, gifts, grants, and bequests for deposit into the fund. The commissioner of finance may not credit more than \$40,000 per year to the account from collected surcharges; excess funds must be credited to the general fund. [Effective July 1, 2005.]

11 Content of certificate. Mandates that each certificate of title issued for a vehicle contaminated by methamphetamine production contain the term "hazardous waste contaminated vehicle" if the registrar has received the notice described in section 5. [Effective July 1, 2005.]

12 Methamphetamine laboratory cleanup revolving fund.

Subd. 1. Definitions. Defines clandestine lab site, property, and remediate.

Subd. 2. Fund established. Mandates the Public Facilities Authority to establish a methamphetamine laboratory cleanup revolving fund.

Subd. 3. Applications. Specifies the application process for loans from the fund.

Subd. 4. Loan eligibility. Specifies county or city eligibility for loans from the fund.

Subd. 5. Use of loan proceeds; reimbursement by property owner. Mandates that loans be used to remediate contaminated sites or to reimburse the applicable county or city fund. A loan recipient must seek reimbursement for the costs of remediation from the owner of the property containing the clandestine lab site.

Subd. 6. Award and disbursement of funds. Outlines the procedures for awarding and disbursing loans.

Subd. 7. Loan conditions and terms. Specifies terms and conditions of loans made under this section.

Subd. 8. Authority to incur debt. Authorizes counties and cities to incur debt under this section by resolution of the board or council authorizing issuance of a revenue bond to the authority.

[Effective July 1, 2005.]

13 Definitions. Expands the definition of "violent crime" in the criminal code's sentencing provision for certain dangerous and repeat felony offenders to include within it section 9. [Effective August 1, 2005, for crimes committed on or after that date.]

14 Requested legislative auditor's report; drug treatment . Requests that the Legislative

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Audit Commission direct the legislative auditor to study and issue a report on the efficacy of controlled substance treatment programs for criminal offenders in Minnesota. If requested, this report is due to the legislature on February 1, 2006. [Effective July 1, 2005.]

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Appropriations.

Subd. 1. Corrections. Blank appropriation for the biennium. Directs the commissioner to issue a report on the impact of methamphetamine to the legislature by March 15, 2006. The report must include the number of incarcerated methamphetamine offenders, a comparison of past figures and a projection of future figures, recidivism rates, and treatment options and costs.

Subd. 2. Public defense. Blank appropriation for the biennium. Allocates funds for increased methamphetamine caseloads and a methamphetamine trial team.

Subd. 3. Courts. Blank appropriation for the biennium.

Subd. 4. Human services. Blank appropriation for the biennium. Directs the commissioner to use the appropriation for grants to fund three pilot methamphetamine treatment programs for convicted offenders. The commissioner shall report to the legislature by February 15, 2006, information on the distributions of the grants, and by February 15, 2008, information of the success of the pilot programs.

Subd. 5. Employment and economic development. Blank appropriation for the biennium to be used to carry out the authority's duties involving the methamphetamine lab cleanup revolving fund.

[Effective July 1, 2005.]

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Repealer. Repeals provisions in Minnesota Statutes, chapters 18C and 18D, relating to anhydrous ammonia that are addressed in section 8. [Effective August 1, 2005.]