



## Fiscal Estimate Narratives

DOC 5/12/2005

LRB Number	05-2309/1	Introduction Number	AB-183	Estimate Type	Original
<b>Subject</b>					
Methamphetamine					

### Assumptions Used in Arriving at Fiscal Estimate

This bill creates several changes to current law relating to the controlled substance methamphetamine and the materials used to make it.

#### Classification of Pseudoephedrine Hydrochloride as a Controlled Substance

Under current law controlled substances are under five separate schedules. Schedule V controlled substances may be dispensed without a prescription but only a registered pharmacist may sell the drug(s) at retail and only in specific amounts. Additionally, the pharmacist must record the purchaser's name, address, and quantity of the product sold. Unlawful delivery of any Schedule V controlled substance is a Class I felony, regardless of the amount involved, punishable by a fine of up to \$10,000 or a maximum term of imprisonment of three and one-half years, or both.

This bill classifies pseudoephedrine hydrochloride as a Schedule V controlled substance; prohibits a person from purchasing more than nine grams of pseudoephedrine hydrochloride within a 30-day period; and requires the purchaser to provide the pharmacist selling the product with a photo ID. The classification and restrictions on the purchase of pseudoephedrine hydrochloride do not apply if the product being sold contains significant quantities of another active medicinal ingredient; the drug is in liquid or soft gelatin capsule form; or the Controlled Substances Board has determined that the pseudoephedrine hydrochloride cannot readily be used in the manufacture of methamphetamine.

#### Possession of Methamphetamine Precursors

Current law prohibits the possession of disposing of waste resulting from the manufacture of methamphetamine if not for legitimate purposes; prohibits possessing or attempting to possess methamphetamine; and prohibits the manufacture, distribution and delivery of methamphetamine and the possession with intent to manufacture, distribute or deliver methamphetamine.

This bill prohibits possession of pseudoephedrine hydrochloride, ephedrine, phenylpropanolamine, red phosphorous, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia, and liquid nitrogen with an intent to manufacture methamphetamine. The bill also makes possession of more than 24 grams of pseudoephedrine hydrochloride, ephedrine or phenylpropanolamine proof of a person's intent to manufacture. A person who violates this prohibition is guilty of a Class H felony, punishable by a fine not to exceed \$10,000 or imprisonment not to exceed six years, or both. A conviction for possessing these materials with intent to manufacture methamphetamine would, like possession with intent crimes, be classified as a "three-strikes" crime.

#### Agricultural Use of Chemicals Used to Make Methamphetamine

Current law contains several prohibitions regarding storing, holding, transporting and transferring anhydrous ammonia, and the theft of it or anhydrous ammonia equipment. This bill prohibits a person from intentionally releasing another person's anhydrous ammonia without the person's consent. A person who violates this prohibition is guilty of a Class I felony, punishable by a fine not to exceed \$10,000 or imprisonment not to exceed three and one half years, or both. This bill also includes liquid nitrogen under the statute relating to theft of anhydrous ammonia or related equipment and provides the same penalty for attempts that apply to completed offenses.

#### Distribution of Methamphetamine to Minors

Under current law, the penalties for a person who distributes or delivers a controlled substance to a person

under the age of 18 and who is three years or more younger could be imprisoned for an additional five years beyond the maximum prison sentence. Under this bill, a person convicted of distributing or delivering methamphetamine to someone who is under the age of 18 and who is at least two years younger than he or she is, is subject to a Class B felony, punishable by a term of imprisonment not to exceed 60 years. The Department of Corrections is unable to project the number of offenders who may be subject to the criminal penalties under the provisions of this bill and is therefore unable to estimate the fiscal impact on state or local government. From 1997 to 2004, a total of 415 persons were convicted of a methamphetamine-related crime, with 140 inmates sentenced to prison and 275 on placed on community supervision. While the Department of Corrections assumes these new and/or expanded penalties will increase prison and probation populations, it is impossible to predict how many offenders will be added to DOC populations. In FY 04 the annual cost to place an inmate in a DOC institution was \$28,000 and \$2,000 per year for a community supervision placement.

### **Long-Range Fiscal Implications**