

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE DRS35159-LH-89B (2/28)

Short Title: Meth. Lab Prevention Act.

(Public)

Sponsors: Senators Dalton, and Snow.

Referred to:

A BILL TO BE ENTITLED

1
2 AN ACT TO ADD PSEUDOEPHEDRINE, A CRITICAL INGREDIENT IN THE
3 MANUFACTURE OF THE ILLEGAL DRUG METHAMPHETAMINE, TO
4 SCHEDULE V OF THE CONTROLLED SUBSTANCES LIST, TO
5 APPROPRIATE FUNDS TO THE DEPARTMENT OF JUSTICE TO COMBAT
6 THE MANUFACTURE OF METHAMPHETAMINE, TO MAKE THE
7 MANUFACTURE OF METHAMPHETAMINE IN A DWELLING THAT IS ONE
8 OF FOUR OR MORE CONTIGUOUS DWELLINGS AN AGGRAVATING
9 FACTOR, AND TO AUTHORIZE THE LEGISLATIVE RESEARCH
10 COMMISSION TO STUDY THE ISSUES RELATING TO THE ABUSE OF
11 METHAMPHETAMINE.

12 The General Assembly of North Carolina enacts:

13 **SECTION 1.** G.S. 90-93 reads as rewritten:

14 **"§ 90-93. Schedule V controlled substances.**

15 (a) This schedule includes the controlled substances listed or to be listed by
16 whatever official name, common or usual name, chemical name, or trade name
17 designated. In determining that a substance comes within this schedule, the Commission
18 shall find: a low potential for abuse relative to the substances listed in Schedule IV of
19 this Article; currently accepted medical use in the United States; and limited physical or
20 psychological dependence relative to the substances listed in Schedule IV of this
21 Article. The following controlled substances are included in this schedule:

- 22 (1) Any compound, mixture or preparation containing any of the
23 following limited quantities of narcotic drugs or salts thereof, which
24 shall include one or more nonnarcotic active medicinal ingredients in
25 sufficient proportion to confer upon the compound, mixture, or
26 preparation valuable medicinal qualities other than those possessed by
27 the narcotic alone:

- 1 a. Not more than 200 milligrams of codeine or any of its salts per
2 100 milliliters or per 100 grams.
- 3 b. Not more than 100 milligrams of dihydrocodeine or any of its
4 salts per 100 milliliters or per 100 grams.
- 5 c. Not more than 100 milligrams of ethylmorphine or any of its
6 salts per 100 milliliters or per 100 grams.
- 7 d. Not more than 2.5 milligrams of diphenoxylate and not less
8 than 25 micrograms of atropine sulfate per dosage unit.
- 9 e. Not more than 100 milligrams of opium per 100 milliliters or
10 per 100 grams.
- 11 f. Not more than 0.5 milligram of difenoxin and not less than 25
12 micrograms of atropine sulfate per dosage unit.
- 13 (2) Repealed by Session Laws 1985, c. 172, s. 9.
- 14 (3) Stimulants. – Unless specifically exempted or excluded or unless listed
15 in another schedule, any material, compound, mixture, or preparation
16 which contains any quantity of the following substances having a
17 stimulant effect on the central nervous system, including its salts,
18 isomers and salts of isomers:
- 19 a. Repealed by Session Laws 1993, c. 319, s. 7.
- 20 b. Pyrovalerone.
- 21 (4) Any compound, mixture, or preparation containing any detectable
22 quantity of pseudoephedrine base, its salts or optical isomers, or salts
23 of optical isomers; however, this does not include compounds,
24 mixtures, or preparations that are in liquid, liquid capsule, or gel
25 capsule form if pseudoephedrine is not the only active ingredient.
- 26 (b) A Schedule V substance may be sold at retail without a prescription only by a
27 registered pharmacist and no other person, agent or employee may sell a Schedule V
28 substance even if under the direct supervision of a pharmacist.
- 29 (c) Notwithstanding the provisions of G.S. 90-93(b), after the pharmacist has
30 fulfilled the responsibilities required of him in this Article, the actual cash transaction,
31 credit transaction, or delivery of a Schedule V substance, may be completed by a
32 nonpharmacist. A pharmacist may refuse to sell a Schedule V substance until he is
33 satisfied that the product is being obtained for medicinal purposes only.
- 34 (d) A Schedule V substance may be sold at retail without a prescription only to a
35 person at least 18 years of age. The pharmacist must require every retail purchaser of a
36 Schedule V substance to furnish suitable identification, including proof of age when
37 appropriate, in order to purchase a Schedule V substance. If the Schedule V substance is
38 pseudoephedrine, then the retail purchaser must provide a photo identification showing
39 the date of birth of the person. The name and address obtained from such identification
40 shall be entered in the record of disposition to consumers.
- 41 (e) No person shall purchase, receive, or otherwise acquire more than nine grams
42 of any mixture, product, or preparation containing the controlled substance described in
43 subdivision (a)(4) of this section within any 30-day period; however, this limit does not
44 apply if the controlled substance is dispensed pursuant to a valid prescription.

1 (f) The Commission for Mental Health, Developmental Disabilities, and
2 Substance Abuse Services, by rule, may exempt other products from this Schedule that
3 the Commission finds are not used in the illegal manufacture of methamphetamine or
4 other dangerous controlled substances. A manufacturer of a drug product may apply for
5 removal of the product from this Schedule if the product is determined by the
6 Commission to have been formulated in such a way as to effectively prevent the
7 conversion of the active ingredient into methamphetamine."

8 **SECTION 2.** There is appropriated from the General Fund to the
9 Department of Justice the sum of eight hundred thirty-six thousand six hundred dollars
10 (\$836,000) for the 2005-2006 fiscal year to combat the illegal manufacture of
11 methamphetamine. The funds appropriated by this act shall be used to create 13 new
12 positions in the State Bureau of Investigation to combat illegal methamphetamine lab
13 operations in North Carolina. These new positions shall include the following: six SBI
14 drug chemists, two drug chemistry technicians, four SBI field agents, and one special
15 agent supervisor who would oversee a coordinated statewide methamphetamine
16 elimination strategy. These new positions are established beginning January 1, 2006.

17 **SECTION 3.** G.S. 15A-1340.16(d) is amended by adding a new subdivision
18 to read:

19 "(16b) The offense is the manufacture of methamphetamine and was
20 committed in a dwelling that is one of four or more contiguous
21 dwellings."

22 **SECTION 4.(a)** The Legislative Research Commission may study the issues
23 regarding the abuse of methamphetamine precursors used to make methamphetamine
24 and any other issues that are relevant to that topic. In conducting the study, the
25 Commission shall also consider how to address the problems presented by the abuse of
26 methamphetamine, including educational and training programs that focus on curbing
27 the use of methamphetamine in North Carolina. The Commission may also consider
28 any other issues relevant to the study.

29 **SECTION 4.(b)** If the study authorized by this section is undertaken, the
30 Legislative Research Commission shall appoint at a minimum the members to the study
31 committee as provided by this subsection.

32 (1) The President Pro Tempore of the Senate shall appoint the following
33 members:

- 34 a. One representative from the Office of the Attorney General.
- 35 b. One member of the Senate as appointed by the President Pro
36 Tempore of the Senate.
- 37 c. One representative from the North Carolina Association of
38 County Directors of Social Services.
- 39 d. One representative from the North Carolina Association of
40 Community Pharmacists.
- 41 e. One representative from the Consumer Healthcare Products
42 Association.

43 (2) The Speaker of the House of Representatives shall appoint the
44 following members:

- 1 a. One member of the House of Representatives.
2 b. One representative from the Office of the Governor.
3 c. One representative from the North Carolina Retail Merchants
4 Association.
5 d. One representative from the District Attorney's Association of
6 North Carolina.
7 e. One representative from the North Carolina Sheriffs'
8 Association, Inc.

9 **SECTION 4.(c)** The Legislative Research Commission may make an
10 interim report to the 2005 General Assembly, Regular Session 2006, and shall make its
11 final report to the 2007 General Assembly.

12 **SECTION 4.(d)** The Legislative Services Officer shall allocate funds
13 appropriated to the General Assembly for the expenditures of the Legislative Services
14 Commission in conducting this study.

15 **SECTION 5.** Sections 1 and 3 of this act become effective December 1,
16 2005, and apply to offenses committed on or after that date. The remainder of this act
17 becomes effective July 1, 2005.