**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 2005**

**S** **3**

# SENATE BILL 686
**Judiciary II Committee Substitute Adopted 4/26/05**
**Third Edition Engrossed 4/28/05**

Short Title: Meth. Lab Prevention Act. (Public)

Sponsors:

Referred to:

March 21, 2005

A BILL TO BE ENTITLED

AN ACT TO ADD PSEUDOEPHEDRINE, A CRITICAL INGREDIENT IN THE MANUFACTURE OF THE ILLEGAL DRUG METHAMPHETAMINE, TO SCHEDULE V OF THE CONTROLLED SUBSTANCES LIST; TO MAKE THE MANUFACTURE OF METHAMPHETAMINE IN A DWELLING THAT IS ONE OF FOUR OR MORE CONTIGUOUS DWELLINGS AN AGGRAVATING FACTOR; TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE ISSUES RELATING TO THE ABUSE OF METHAMPHETAMINE; AND TO MAKE TECHNICAL CHANGES.

The General Assembly of North Carolina enacts:

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

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

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

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

a. Not more than 200 milligrams of codeine or any of its salts per 100 milliliters or per 100 grams.

b. Not more than 100 milligrams of dihydrocodeine or any of its salts per 100 milliliters or per 100 grams.
c. Not more than 100 milligrams of ethylmorphine or any of its salts per 100 milliliters or per 100 grams.
d. Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.
e. Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.
f. Not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(2) Repealed by Session Laws 1985, c. 172, s. 9.

(3) ~~Stimulants. —~~Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation ~~which~~ that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:
a. Repealed by Session Laws 1993, c. 319, s. 7.
b. Pyrovalerone.

(4) Any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine base, its salts or isomers, or salts of isomers; however, this does not include compounds, mixtures, or preparations that are in liquid, liquid capsule, or gel capsule form unless pseudoephedrine is the only active ingredient.

(b) A Schedule V substance may be sold at retail without a prescription only by a registered pharmacist and no other person, agent or employee may sell a Schedule V substance even if under the direct supervision of a pharmacist.

(c) Notwithstanding ~~the provisions of~~ G.S. 90-93(b), after the pharmacist has fulfilled the responsibilities required of him in this Article, a nonpharmacist may complete the actual cash transaction, credit transaction, or delivery of a Schedule V ~~substance, may be completed by a nonpharmacist.~~ substance. A pharmacist may refuse to sell a Schedule V substance until ~~he~~ the pharmacist is satisfied that the product is being obtained for medicinal purposes only.

(d) A Schedule V substance may be sold at retail without a prescription only to a person at least 18 years of age. The pharmacist must require every retail purchaser of a Schedule V substance to furnish suitable identification, including proof of age when appropriate, in order to purchase a Schedule V substance. If the Schedule V substance is pseudoephedrine, then the retail purchaser must provide a photo identification showing the date of birth of the person. The name and address obtained from ~~such~~ the identification shall be entered in the record of disposition to consumers.

(e) No person shall purchase, receive, or otherwise acquire more than nine grams of any mixture, product, or preparation containing the controlled substance described in subdivision (a)(4) of this section within any 30-day period; however, this limit does not apply if the controlled substance is dispensed under a valid prescription.

(f) Notwithstanding this section or any other law, a multistate, wholesale distributor of the controlled substance described in subdivision (a)(4) of this section may continue to warehouse or store this substance in the same manner as the distributor warehoused or stored the substance before the effective date of this subsection.

(g) Any person may request an exemption or conditional exemption from this Schedule for a specific product. The person requesting the exemption has the burden of proof for the exemption. The person shall provide the Commission with evidence that the product has been formulated in a way that serves as an effective general deterrent to the conversion of pseudoephedrine into methamphetamine. This evidence shall include the furnishing of a valid scientific study, conducted by a professional laboratory and evincing professional quality chemical analysis, which is in accordance with uniform parameters set forth in writing by the Commission. This report shall include data, which is documented and can be reviewed, and a clear delineation of methodology.

The Commission shall decide whether to grant an exemption based on a consideration of all of the following factors:

(1) Ease with which the product can be converted into methamphetamine.

(2) Ease with which pseudoephedrine is extracted from the substance and whether it forms an emulsion, salt, or other form.

(3) Whether the product contains a molecular lock that renders it incapable of conversion into methamphetamine.

(4) Presence of other ingredients that render the product less likely to be used in the manufacture of methamphetamine.

(5) Any pertinent data that can be used to determine the risks of the substance being used in the illegal manufacture of methamphetamine or any other controlled substance."

**SECTION 2.** G.S. 15A-1340.16(d) is amended by adding a new subdivision to read:

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

**SECTION 3.(a)** The Legislative Research Commission may study the issues regarding the abuse of methamphetamine precursors used to make methamphetamine and any other issues that are relevant to that topic. In conducting the study, the Commission shall also consider how to address the problems presented by the abuse of methamphetamine, including educational and training programs that focus on curbing the use of methamphetamine in North Carolina. The Commission may also consider any other issues relevant to the study.

**SECTION 3.(b)** If the study authorized by this section is undertaken, the Legislative Research Commission shall appoint at a minimum the members to the study committee as provided by this subsection.

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

a. One representative from the Office of the Attorney General.

b. One member of the Senate as appointed by the President Pro Tempore of the Senate.
c. One representative from the North Carolina Association of County Directors of Social Services.
d. One representative from the North Carolina Association of Community Pharmacists.
e. One representative from the Consumer Healthcare Products Association.

(2) The Speaker of the House of Representatives shall appoint the following members:
a. One member of the House of Representatives.
b. One representative from the Office of the Governor.
c. One representative from the North Carolina Retail Merchants Association.
d. One representative from the District Attorney's Association of North Carolina.
e. One representative from the North Carolina Sheriffs' Association, Inc.

**SECTION 3.(c)** The Legislative Research Commission may make an interim report to the 2005 General Assembly, Regular Session 2006, and shall make its final report to the 2007 General Assembly.

**SECTION 3.(d)** The Legislative Services Officer shall allocate funds appropriated to the General Assembly for the expenditures of the Legislative Services Commission in conducting this study.

**SECTION 4.** Sections 1 and 2 of this act become effective December 1, 2005, and apply to offenses committed on or after that date. The remainder of this act becomes effective July 1, 2005.