

# 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; increases the penalty for possession of certain substances with intent to manufacture methamphetamine; requires criminal 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; provides criminal penalties and requirements 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; and mandates implementation of a methamphetamine awareness retail education program.

### Section

- 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 use (as opposed to human consumption).
- 2**      **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

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of possession of "any chemical reagents or precursors with the intent to manufacture methamphetamine." Provides that the list of chemical reagents or precursors in the statute is not an exclusive one. Strikes the cross-referenced definition of "anhydrous ammonia."

- 3**     **Penalty.** Increases the maximum criminal penalty for a violation of section 1 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. Also requires a mandatory minimum sentence of not less than two years for a first offense and a sentence of not less than three years for a repeat offense. The court and prosecutors may waive the mandatory minimum sentence upon the finding of a substantial and compelling reason to do so. Such a waiver is a departure from the sentencing guidelines.

**4**     **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 owner's 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.** Mandates that police officers who arrest a person at a clandestine lab site notify the appropriate county or local health department and other entities of the arrest and the location of the site. Requires that local units of government, local health department and 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.

- 5**     **Exceptions.** Amends the current ephedrine statute to add a cross-reference to section 5.

**6**     **Sales of Methamphetamine Precursor Drugs; Criminal Penalties; Reporting.**

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

**Subd. 2. Prohibited conduct.** Provides criminal penalties and 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.

**Subd. 3. Criminal penalty.** Provides a misdemeanor penalty for a violation of subdivision 2.

**Subd. 4. Exception to criminal penalty.** Provides exceptions to criminal penalties to owners, operators, supervisors and managers in certain cases. Provides that subdivisions 2 and 3 do not apply to precursor drugs that are manufactured in a manner

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that prevents the drugs from being used to make methamphetamine.

**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 pediatric products from the scope of this section.

**Subd. 7. Pre-emption.** The section pre-empts local ordinances regulating the sale of the covered products.

## **7 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 codified by Minnesota Statutes, sections 18C.201 and 18D.331. (These provisions are repealed in section 14.) 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 \$50,000 or both.

## **8 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.

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**Subd. 3. Criminal penalty.** Violation of these provisions results in a felony and imprisonment of not more than five years or \$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. Consecutive sentences.** Authorizes imposition of consecutive sentences.

**Subd. 6. 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. 7. Reporting maltreatment of vulnerable adult.** Proposes police officer reporting obligations 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 adult has been exposed to a meth lab.

**9 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.

**10 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 3.

**11 Methamphetamine Laboratory Cleanup Revolving Fund.**

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

**Subd. 2. Fund established.** Mandates the Public Facilities Authority 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

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bond to the authority.

- 12**      **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 7.
- 13**      **Methamphetamine Retail Education Program.** Mandates the commissioner of public safety to develop and implement a methamphetamine awareness retail education program.
- 14**      **Appropriation.** Appropriates an unspecified sum of money to the commissioner of public safety from the methamphetamine awareness and education account for the methamphetamine retail education program discussed in section 12. Appropriates an unspecified sum of money to the Public Facilities Authority from the general fund for the methamphetamine laboratory cleanup revolving fund discussed in section 10.
- 15**      **Repealer.** Repeals provisions in Minnesota Statutes, chapters 18C and 18D, relating to anhydrous ammonia that are addressed in this bill.
- 16**      **Effective Date.** Makes the bill effective August 1, 2004, for crimes committed on or after that date.