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# Methamphetamine Laws in Minnesota

It is illegal to manufacture, sell, or possess methamphetamine in Minnesota. It is also illegal to possess methamphetamine precursor drugs with the intent to manufacture methamphetamine. This information brief explains the laws on methamphetamine, including crimes and penalties for violations of the law, restrictions on the sale of precursor drugs, and regulations regarding the use and cleanup of property used for manufacturing methamphetamine.

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## Drug Classification

Methamphetamine and its derivatives, however they are manufactured, are included in Minnesota's definition of narcotic drugs. [Minn. Stat. § 152.01, subd. 10](#). In addition, any substance or mixture containing any amount of methamphetamine is classified as a Schedule III controlled substance, and methamphetamine precursor drugs are classified as Schedule V controlled substances. A precursor drug is any compound, substance, or mixture intended for human consumption that contains ephedrine or pseudoephedrine as an active ingredient. [Minn. Stat. § 152.02, subs. 4 and 6](#).

## Crimes and Penalties

There are four primary methamphetamine crimes in Minnesota: manufacture, possession of precursors with intent to manufacture, sale, and possession. In order to convict a person of one of the methamphetamine crimes, the state must prove that the substance at issue is actually methamphetamine; precursor drugs do not trigger liability under these statutes, except for the crime of possession of precursors with the intent to manufacture methamphetamine. *State v. Traxler*, 583 N.W.2d 556, 560 (Minn. 1998). However, as long as methamphetamine is actually present, strength or concentration of the substance makes no difference. *State v. Palmer*, 507 N.W.2d 865, 869 (Minn. Ct. App. 1993).

In addition, because these statutes make no distinction between a substance not yet refined to the point where it can be used ("wet" methamphetamine) and the drug in consumable form ("dry" methamphetamine), the state does not need to prove the statutory amount of the *usable* drug, only the substance as it is found. *State v. Heath*, 685 N.W.2d 48, 56 (Minn. Ct. App. 2004).

## Manufacturing Crimes

Manufacturing methamphetamine, in any amount, with or without intent to sell, is a first-degree controlled substance crime, punishable by a 30-year prison term or a \$1 million fine, or both. If the person convicted has a previous controlled substance conviction, the penalty is at least four and up to 40 years' imprisonment and an optional fine of up to \$1 million. [Minn. Stat. § 152.021](#). The Minnesota Sentencing Guidelines recommend an 86-month sentence for a person with no criminal history who is convicted of a first-degree controlled substance offense.

In addition to the criminal penalties for manufacturing methamphetamine, a person convicted of manufacturing methamphetamine may be ordered to pay restitution to any public entities that participated in an emergency response to the crime and to any individual property owners that incurred cleanup costs because of the crime. [Minn. Stat. § 152.0275, subd. 1](#) (see [Other Requirements and Liabilities](#), page 8).

## Possession of Precursor Drugs with Intent to Manufacture Crimes

Possession of any reagent or precursor drug with the intent to manufacture methamphetamine is a felony, carrying a penalty of up to ten years in prison or a \$20,000 fine, or both. If the person convicted of this crime has a previous controlled substance conviction, the penalty is increased to up to 15 years' imprisonment or a \$30,000 fine, or both. [Minn. Stat. § 152.0262](#). The Minnesota Sentencing Guidelines recommend a stayed 18-month sentence for a person with no criminal history who is convicted of this offense.

## Sale and Possession Crimes

The gravity of crimes involving sale or possession of methamphetamine is linked to the amount of substance involved; the amount of the drug is determined by the total gram weight of the substance, not by the actual amount of methamphetamine present in it. Because of the dangers that methamphetamine, cocaine, and heroin pose, the penalties for sale or possession of these drugs are much harsher than penalties for the same amount of other drugs.

Sale of ten grams or more of any mixture or substance containing methamphetamine, or possession of 25 grams or more of any such substance, is a first-degree controlled substance crime and carries a penalty of up to 30 years' imprisonment and a \$1 million fine, or both. If the person has a previous controlled substance conviction, the penalty is increased to at least four and up to 40 years' imprisonment. [Minn. Stat. § 152.021](#). The Minnesota Sentencing Guidelines recommend an 86-month sentence for a person with no criminal history who is convicted of a first-degree controlled substance offense.

Sale of three to ten grams or possession of six to 25 grams of a methamphetamine substance is a second-degree controlled substance violation and is punishable by a 25-year prison sentence or a \$500,000 fine, or both. For offenders with a previous controlled substance conviction, the penalty increases to up to 40 years (with a three-year minimum sentence) and an optional fine of up to \$500,000. [Minn. Stat. § 152.022](#). The Minnesota Sentencing Guidelines recommend a 48-month sentence for a person with no criminal history who is convicted of a second-degree controlled substance offense.

Sale of *any* substance containing methamphetamine, or possession of three to six grams of such substance, is a third-degree controlled substance crime and carries a prison term of up to 20 years or a fine of up to \$250,000, or both. With a previous controlled substance conviction, the term is at least two and up to 30 years, with an optional \$250,000 fine. [Minn. Stat. § 152.023](#). The Minnesota Sentencing Guidelines recommend a stayed 21-month sentence for a person with no criminal history who is convicted of a third-degree controlled substance offense.

Possession of a substance containing any amount of methamphetamine is a fourth-degree controlled substance crime and carries a prison term of up to 15 years or a fine of up to \$100,000 or both. With a previous controlled substance conviction, the term is at least one and up to 30 years, with an optional \$100,000 fine. [Minn. Stat. § 152.024](#). The Minnesota Sentencing Guidelines recommend a stayed 12-month sentence for a person with no criminal history who is convicted of a fourth-degree controlled substance offense.

## Juvenile Records of Methamphetamine Crimes

Juvenile records typically receive a greater degree of confidentiality than adult court records. However, if a juvenile is found delinquent based on behavior that, if committed by an adult, would constitute any of the manufacturing, sale, or possession crimes, or possession of substances with intent to manufacture methamphetamine, the court's disposition order must be forwarded to the juvenile's school (if he or she is currently enrolled). [Minn. Stat. § 260B.171, subd. 3.](#)

## Other Prohibited Acts

### Sale and Purchase of Methamphetamine Precursor Drugs

A pharmacy employee who violates the restrictions placed on the sale of methamphetamine precursor drugs is guilty of a misdemeanor.<sup>1</sup> Likewise, a person who purchases an amount of methamphetamine precursor drugs that exceeds the statutory maximum is guilty of a misdemeanor. [Minn. Stat. § 152.02, subd. 6.](#) The statutory restrictions placed on the sale and purchase of methamphetamine precursor drugs are discussed in detail in [Restrictions on Sale of Methamphetamine Precursor Drugs on page 5.](#)

### Protection of Children and Vulnerable Adults

Special laws are in place to protect children and vulnerable adults from the presence or effects of methamphetamine. Knowingly causing or permitting a child or vulnerable adult to inhale, be exposed to, have contact with, or ingest methamphetamine or methamphetamine paraphernalia is a felony, as is manufacturing methamphetamine or storing precursors, waste products, or paraphernalia in proximity to children or vulnerable adults in the following places:

- In the presence of a child or vulnerable adult
- In the residence of a child or vulnerable adult
- In any building, structure, conveyance or outdoor location where a child or vulnerable adult could reasonably be expected to be present
- In a room offered to the public for overnight accommodations (hotel rooms)
- Any multiple-unit residential building

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<sup>1</sup> A misdemeanor is punishable by up to 90 days in jail and/or a \$1,000 fine. [Minn. Stat. § 609.03.](#)

[Minn. Stat. § 152.137, subd. 2.](#) Violators are subject to a sentence of up to five years in prison or a fine up to \$10,000, or both. The Minnesota Sentencing Guidelines recommend a stayed 12-month sentence for a person with no criminal history who is convicted of this offense.

A person who is convicted under this section can also be convicted for other crimes resulting from the same incident or behavior. Further, a violation of this law is considered a violent crime, which triggers several collateral consequences such as ineligibility for early conditional release from prison. [Minn. Stat. § 244.055, subd. 2; § 609.1095.](#)

In addition, if a child is found in the area where any of these activities are taking place, a peace officer can take the child into protective custody. The child must be provided a health screening to address any potential health problems arising from exposure to the activity. If the officer does not take the child into protective custody, but knows that the child was exposed to methamphetamine, the same health screening must be offered. [Minn. Stat. § 152.137, subd. 5.](#)

If a child was taken into protective custody after being found in an area where methamphetamine was being manufactured or stored, or where waste products were stored, the officer who took the child into custody must inform the administration of the school where the child is enrolled. [Minn. Stat. § 260C.171, subd. 6.](#)

If a vulnerable adult is found in the vicinity of any of these activities and a peace officer has reason to believe that the vulnerable adult was exposed to, inhaled, ingested, or had contact with methamphetamine or methamphetamine paraphernalia, the peace officer must report the suspected maltreatment to the county common entry point.<sup>2</sup> Once it receives a report from the common entry point, the county social services agency must immediately respond. [Minn. Stat. § 152.137, subd. 6.](#)

## Restrictions on Sale of Methamphetamine Precursor Drugs

### Pharmacies

Methamphetamine precursor drugs are defined as any compound, mixture, or preparation, intended for human consumption that contains ephedrine or pseudoephedrine as an active ingredient. These drugs can be sold over-the-counter, but such sales are subject to amount and location restrictions. Methamphetamine precursor drugs can only be sold in packages containing less than three grams of the drug, and sales of more than six grams of the drug to any one person in one transaction is prohibited. Weights are calculated using the amount of ephedrine or pseudoephedrine, not the weight of the medicine as a whole. [Minn. Stat. § 152.02, subd. 6 \(c\) and \(d\).](#)

Precursor drugs must be kept behind the pharmacy counter and can only be sold by a licensed pharmacist, pharmacy technician, or pharmacy clerk. The buyer must provide identification

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<sup>2</sup> The county common entry point receives, assesses, and dispatches vulnerable adult maltreatment reports that occur in the county and is available 24 hours per day.

showing his or her date of birth and must sign a paper or electronic document stating the name of the buyer, date of sale, and amount of drug purchased. Pharmacy employees are required to report suspicious transactions to their boss, and the boss is authorized to contact law enforcement. Civil immunity is extended to those who report suspicious transactions in good faith. [Minn. Stat. § 152.02, subd. 6 \(e\)](#).

No one under the age of 18 can purchase methamphetamine precursor drugs, and sales are limited to no more than six grams of the drug per person, total, in any 30-day period. [Minn. Stat. § 152.02, subd. 6 \(f\) and \(g\)](#). Violation of these restrictions is a misdemeanor, and the violator is subject to 90 days' imprisonment or a \$1,000 fine, or both. Owners, operators, supervisors, and managers are immune from criminal liability under this section if they can: (1) prove that they did not have prior knowledge of, participate in, or direct the employee or agent to commit the violation; and (2) document that an employee training program was in place to provide information to employees on the legal sale of the methamphetamine precursor drugs. [Minn. Stat. § 152.02, subd. 6 \(i\)](#).

These restrictions do not apply to pediatric products, gel caps and liquid methamphetamine precursors, and forms of the drugs that are difficult to use in making methamphetamine. The Board of Pharmacy is responsible for certifying substances that are exempt. The Board of Pharmacy is authorized to prohibit the over-the-counter sale of methamphetamine precursors in gel capsule or liquid form if the board learns that the substances in these forms can be used to manufacture methamphetamine. These restrictions preempt any local ordinances that are inconsistent with state law. [Minn. Stat. § 152.02, subd. 6 \(k\), \(l\), and \(n\); subd. 8a](#).

## **Veterinarians**

Veterinarians must write a prescription for drugs and products for any species of animal containing ephedrine or pseudoephedrine. These drugs can only be dispensed, sold, or distributed by a veterinarian or a veterinary assistant under the supervision or direction of the veterinarian. Nonveterinarians are prohibited from purchasing these drugs without a prescription. [Minn. Stat. § 35.051](#).

## **Regulation of Other Precursor Substances**

[Minnesota Statutes, section 152.136](#) regulates anhydrous ammonia, a substance used to manufacture methamphetamine. The statute prohibits:

- Stealing or unlawfully taking or carrying any amount of anhydrous ammonia;
- Buying, possessing, selling, or distributing any amount of anhydrous ammonia knowing, or having reason to know, that it will be used to illegally manufacture drugs;
- Placing or transporting anhydrous ammonia in a container that was not designed, constructed, maintained, and authorized to contain or transport anhydrous ammonia;

- Using, delivering, receiving, selling, or transporting a container that was designed and constructed to contain anhydrous ammonia, unless the owner or custodian of the container gives express consent; and
- Tampering with any equipment or facility used to contain, store, or transport anhydrous ammonia.

Violating the statute is a felony and carries a penalty of up to five years' imprisonment or a fine of up to \$50,000, or both. The Minnesota Sentencing Guidelines recommend a stayed 12-month sentence for a person with no criminal history who is convicted of this offense.

## **Regulations Regarding Property Used for Methamphetamine Manufacturing**

### **Records Required to be Filed and Kept**

Police officers who make arrests at “clandestine lab sites” must notify the local health department, the duty officer, and child protection of the arrest and the location of the site. If the site is contaminated with any manufacturing products or byproducts of methamphetamine production, it cannot be occupied or used until it has been assessed and remediated according to Department of Health guidelines. [Minn. Stat. § 152.0275, subd. 2 \(c\)](#). The authority ordering cleanup—a county or local health department or sheriff—must also record with the county recorder or registrar of titles, in the county in which the property is located, an affidavit stating that the property had been used as a clandestine lab site and that some parts of the property may be unusable. [Minn. Stat. § 152.0275, subd. 2 \(h\)](#).

When the remediation is complete, the authority that mandated the cleanup vacates its order. [Minn. Stat. § 152.0275, subd. 2 \(e\)](#). The owner of the property may also file an affidavit of remediation after the property has been cleaned up. The county recorder must file all affidavits submitted in a manner that assures their disclosure during a property title search. [Minn. Stat. § 152.0275, subd. 2 \(j\)](#).

The local community health administrator must maintain information about clandestine lab sites, including the name of the owner, location of the property, extent of the contamination, cleanup status, and whether the remediation order has been vacated. [Minn. Stat. § 152.0275, subd. 2 \(l\)](#).

The county or local health department or sheriff must also notify the registrar of titles of any vehicles contaminated with methamphetamine products. [Minn. Stat. § 152.0275, subd. 2 \(g\)](#). Vehicles contaminated by methamphetamine production must include a notation that the car is a “hazardous waste-contaminated vehicle” on the certificate of title. [Minn. Stat. § 168A.05](#).

## Other Requirements and Liabilities

Before any seller signs an agreement to sell or transfer property, he or she must notify the buyer of whether, to the seller's knowledge, the property was ever used for methamphetamine manufacturing. If it has, the seller must produce a disclosure statement describing the status of any remediation orders or, if the property was used for methamphetamine manufacturing but no remediation order was ever made, informal cleanup procedures. If the seller fails to do so, he or she may be liable to the buyer for cleanup costs and attorney fees. [Minn. Stat. § 152.0275, subd. 2 \(m\) and \(n\)](#).

A person convicted of a drug crime may be ordered to pay restitution to any public entities that participated in an emergency response to the crime and to any individual property owners that incurred cleanup costs. [Minn. Stat. § 152.0275, subd. 1](#).

## Cleaning Up Methamphetamine-Contaminated Property

Where there is an identifiable owner of contaminated private property, remediation must be performed by a contractor and completed pursuant to Department of Health guidelines and any applicable guidelines addressing enforcement of public health laws, abatement of public health nuisances, and remedies available to owners or occupants of the property. [Minn. Stat. § 152.0275, subd. 2 \(c\) and \(d\)](#). The contractor must certify to the owner that the site was cleaned up according to these standards; if the contractor makes this certification and the standards were not met, the contractor is liable to the property owner for additional cleanup costs and attorney fees. [Minn. Stat. § 152.0275, subd. 2 \(e\) and \(f\)](#).<sup>3</sup>

If an owner cannot be found or if the methamphetamine waste is located on public land (e.g., road side), the Minnesota Pollution Control Authority (PCA) can declare an emergency under the Minnesota Environmental Response and Liability Act (MERLA). [Minn. Stat. § 115B.17](#). If the PCA declares an emergency, a cleanup crew is dispatched to clean up the site.<sup>4</sup>

The Public Facility Authority (PFA) operates a revolving account to fund cleanup of clandestine lab sites. A county or city may apply for a loan to remediate such sites if it:

- identifies a site or sites designated by a local public health department or law enforcement as a clandestine lab site;

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<sup>3</sup> Many counties have enacted clandestine drug lab abatement statutes that establish detailed guidelines for handling clandestine drug labs. See Benton County, Minn., Ordinance No. 383; Beltrami County, Minn., Ordinance No. 36; Carver County, Minn., Ordinance No. 53-2004; Olmsted County, Minn., Resolution No. 01-99.

<sup>4</sup> MERLA imposes liability for cleanup on those who cause an environmental emergency. The PCA has not invoked the liability provisions for methamphetamine labs because the PCA does not get involved in cases where the owner is identifiable. The U.S. Drug Enforcement Agency is often the agency to perform cleanup in cases where criminal activity can be affixed to an individual or individuals. Notwithstanding the fact that methamphetamine manufacturers typically have few financial resources, the liability provisions of MERLA could be used to seek cleanup reimbursement and to recover civil damages.



- has required the site's property owner to remediate the site, under a local public health nuisance ordinance that addresses clandestine lab remediation;
- certifies that the property owner cannot pay for the remediation immediately;
- certifies that the property owner has not properly remediated the site; and
- issues a revenue bond, payable to the PFA, as security for the loan.

The funds from the loan may be used to either remediate the site or to reimburse the county or city for remediation that has already been completed. The loan recipient must seek restitution from the owner of the property and may do so in any lawful manner, including a special property tax assessment. [Minn. Stat. § 446A.083](#).

*For more information about drug laws, visit the criminal justice area of our web site, [www.house.mn/hrd/issinfo/crime.htm](http://www.house.mn/hrd/issinfo/crime.htm).*