

HOUSE BILL REPORT

SSB 6233

As Reported by House Committee On:
Judiciary

Title: An act relating to possession of ephedrine, pseudoephedrine, and ammonia.

Brief Description: Clarifying references to ephedrine, pseudoephedrine, and ammonia.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Rasmussen, Long, Shin, Kastama, Franklin, Winsley, Spanel, Swecker, Regala and McAuliffe).

Brief History:

Committee Activity:

Judiciary: 2/26/02, 2/28/02 [DPA].

Brief Summary of Substitute Bill
(As Amended by House Committee)

- Includes possession of the salts, isomers, and salts of isomers of ephedrine or pseudoephedrine within the crime of possession of ephedrine or pseudoephedrine with intent to manufacture methamphetamine.
- Changes "anhydrous ammonia" references to "pressurized ammonia gas or pressurized ammonia gas solution" in the crime of possession of anhydrous ammonia with intent to manufacture methamphetamine.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 9 members: Representatives Lantz, Chair; Hurst, Vice Chair; Carrell, Ranking Minority Member; Boldt, Dickerson, Esser, Jarrett, Lovick and Lysen.

Staff: Edie Adams (786-7180).

Background:

It is a crime for a person to possess ephedrine, pseudoephedrine or anhydrous ammonia with the intent to manufacture methamphetamine. This crime is a class B felony ranked at seriousness level VIII under the Sentencing Reform Act, which would result in a sentencing range of 21-27 months for an offender with no prior convictions. If a finding

is made that a crime was committed when a person under the age of 18 was present in or on the premises of the place where the methamphetamine was being manufactured, then an additional two-year enhancement is added to the offender's presumptive sentence.

A recent Court of Appeals case, *State v. Halsten*, ruled that the crime of possessing ephedrine or psuedoephedrine with intent to manufacture methamphetamine does not include possession of the salts of ephedrine or psuedoephedrine. The defendant in the case possessed psuedoephedrine hydrochloride, which is a salt of psuedoephedrine. The court reversed his conviction because the plain language of the statute does not cover the salts of psuedoephedrine. The court relied in part on the fact that the Legislature, in other areas of the drug laws, has specifically referenced the salts and isomers of drugs.

A law enforcement agency is required to notify the Department of Social and Health Services if the agency discovers a child present at a site where the agency is conducting an investigation of possession of ephedrine or psuedoephedrine with intent to manufacture methamphetamine.

Anhydrous ammonia is ammonia that does not contain any water. Anhydrous ammonia readily absorbs water and improper storage can result in it no longer being "anhydrous."

Summary of Amended Bill:

The crime of possession of ephedrine, psuedoephedrine and anhydrous ammonia with intent to manufacture methamphetamine is amended to include possession of the salts, isomers, or salts of isomers of ephedrine or psuedoephedrine and to change "anhydrous ammonia" to "pressurized ammonia gas or pressurized ammonia gas solution."

References to this crime in the Sentencing Reform Act are amended to conform to this change. In addition, the provision requiring a law enforcement agency to notify the Department of Social and Health Services whenever a child is found at a methamphetamine site is also amended to conform to this change and to specifically include possession of pressurized ammonia gas or pressurized ammonia gas solution.

Amended Bill Compared to Substitute Bill:

The amended bill adds "pressurized ammonia gas solution" to the crime of possessing pressurized ammonia gas with intent to manufacture methamphetamine and the provision on reporting requirements when a child is found at a place where law enforcement is investigating the manufacture of methamphetamine.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date of Amended Bill: The bill contains an emergency clause and takes effect immediately.

Testimony For: This bill is necessary to deal with the rising methamphetamine problem. A recent court case found that the statute did not apply to possession of the salts of ephedrine or psuedoephedrine, which are commonly used to manufacture methamphetamine.

Testimony Against: None.

Testified: Senator Rasmussen, prime sponsor; Dan Coyne, Far West Agribusiness Association; and Tom McBride, Washington Association of Prosecuting Attorneys.