

ASSEMBLY HEALTH AND HUMAN SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 4035

STATE OF NEW JERSEY

DATED: JUNE 9, 2005

The Assembly Health and Human Services Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 4035.

This committee substitute is intended to impose reasonable restrictions on the sale of substances such as ephedrine and pseudoephedrine (commonly sold over-the-counter as decongestants and cold remedies) that can be used to make methamphetamine, in the form of "crystal meth," in a drug user's home, without imposing arduous constraints on such sales. The substitute also criminalizes the possession of anhydrous ammonia (a caustic and dangerous chemical used as a source of nitrogen fertilizer in agricultural production) for the purpose of using it to manufacture methamphetamine.

The substitute provides specifically as follows:

- C No person is permitted to offer for sale or purchase in any single transaction more than three packages, or any number of packages that contain a total of nine grams, of any drug containing a sole active ingredient of ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers or salts of optical isomers, or three packages of any combination drug containing, as one of its active ingredients, ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers or salts of optical isomers, or any number of packages of such combination drug that contain a total of nine grams of ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers or salts of optical isomers.
- C A person who buys or sells these substances in violation of the substitute is guilty of a disorderly persons offense (which is punishable by a term of imprisonment of up to six months or a fine of up to \$1,000, or both).
- C The substitute would not apply to a drug lawfully prescribed or administered by a licensed physician, veterinarian or dentist.
- C Every pharmacy, store and other retail mercantile establishment is required to promptly communicate to local law enforcement authorities the confirmed report of, or actual knowledge of a loss of, 30 or more grams of any drug containing a sole active

ingredient of any of these substances.

- C The substitute establishes a permissive inference, to be used in prosecutions, that a person acted with a purpose to create methamphetamine if there is proof that he has in his possession more than 30 grams or 10 packages of any drug containing the listed substances.
- C The substitute amends N.J.S.A.2C:20-2 to make it a crime of the third degree (which is punishable by a term of imprisonment of three to five years or a fine of up to \$15,000, or both) for a person to possess stolen anhydrous ammonia with the intent to manufacture methamphetamine.
- C The substitute makes it a crime of the second degree (which is punishable by a term of imprisonment of five to 10 years or a fine of up to \$150,000, or both) for a person to unlawfully possess certain precursors under certain circumstances.

-- A person is to be guilty of the crime of unlawful possession of a precursor if the person knowingly or purposely possesses anhydrous ammonia with intent to unlawfully manufacture methamphetamine or any of its analogs.

-- A person is to be guilty of the crime of unlawful possession of a precursor if the person knowingly or purposely possesses phenylalanine with intent to unlawfully manufacture methamphetamine or amphetamine or any of their analogs.

-- A person is to be guilty of the crime of unlawful possession of a precursor if the person knowingly or purposely possesses, with intent to manufacture a controlled dangerous substance or controlled substance analog, any of the following: (1) carbamide (urea) and propanediol and malonic acid or its derivatives; (2) ergot or an ergot derivative and diethylamine or dimethyl-formamide or diethylamide; (3) phenylacetone (1-phenyl-2 propanone); (4) pentazocine and methyl iodide; (5) phenylacetonitrile and dichlorodiethyl methylamine or dichlorodiethyl benzylamine; (6) diphenylacetonitrile and dimethylaminoisopropyl chloride; (7) piperidine and cyclohexanone and bromobenzene and lithium or magnesium; (8) 2, 5-dimethoxy benzaldehyde and nitroethane and a reducing agent.

-- A person is to be guilty of the crime of unlawful possession of a precursor if the person, with intent to unlawfully manufacture methamphetamine, knowingly or purposely possesses ephedrine (including its salts, isomers or salts of isomers), norpseudoephedrine (including its salts, isomers or salts of isomers), n-methylephedrine (including its salts, isomers or salts of isomers), n-methylpseudoephedrine (including its salts, isomers or salts of isomers), or pseudoephedrine (including its salts, isomers or salts of isomers). Proof that a person in possession of these substances at the same time also possesses any of the following substances is to give rise to a permissive inference by the trier of fact that the person acted with intent to unlawfully manufacture methamphetamine: (1) amorphous (red) phosphorus or white phosphorus; (2) hydroiodic acid; (3)

anhydrous ammonia; (4) sodium; and (5) lithium.

C The substitute requires the New Jersey Department of Agriculture to conduct a study on the feasibility of using an additive to anhydrous ammonia sold as agricultural fertilizer to inhibit or prevent its illicit use in the manufacturing of the drug methamphetamine.

-- The study is to consider: the effectiveness of potential additives in inhibiting or preventing the use of anhydrous ammonia to manufacture the drug methamphetamine; expected final cost of any potential additives; the human health hazards, hazards to fish, shellfish and wildlife, and environmental hazards of any potential additives as compared to the same hazards posed by anhydrous ammonia; and the extent which the additives would be expected to reduce the effectiveness or usefulness of anhydrous ammonia as an agricultural fertilizer.

-- The department is to report to the Legislature and the Governor, no later than one year after the effective date of the substitute, on its recommendations to require or encourage the use of an additive to anhydrous ammonia to inhibit or prevent its use in the manufacture of methamphetamine.

C The substitute takes effect on the 90th day after enactment.