

2005 Meth Legislation Summary

Contained in HF1, the Public Safety Omnibus Bill,
Signed by Governor Pawlenty on June 2, 2005

- **10 New Meth Agents:** \$1 million per year for 10 new BCA agents, assigned exclusively to meth enforcement (investigation of manufacturing and distributing meth, and related violence).
- **Meth Treatment Grants:** \$750,000 per year of biennium (but this is a onetime appropriation the bill says) for grants to counties for meth treatment programs. Priority is given to counties that demonstrate a treatment approach that incorporates best practices as defined by MDHS.
- **Makes methamphetamine a narcotic drug.**
- **Makes products containing ephedrine or pseudoephedrine Schedule V.**
- **Over-the-counter sales of meth precursor drug provisions:**
(Effective July 1, 2005)
 - Limited to packages containing not more than a total of 6 grams of the precursor base, and if in blister pack form, each blister may contain no more than 2 doses;
 - Must be behind checkout counter where public is not permitted;
 - Sold only by pharmacist, pharmacy tech, or pharmacy clerk;
 - Buyer must show ID w/ birthdate;
 - Sign written or electronic document detailing date, name, amount of drug;
 - Buyer must be 18;
 - No person may acquire through OTC sales more than 6 grams of meth precursor drugs in 30 days;
 - Someone (sales agent) who knowingly violates these sales provisions is guilty of misdemeanor and may be sentenced to up to 90 days imprisonment, fined up to \$1,000, or both;
 - Owner of business where illegal sale is made is not subject to criminal penalties if
 - a) didn't know, participate in or instruct employee to do it;
 - b) can document that employee training program was in place;
 - Sales agent must report suspicious transactions to owner, owner may report these transactions to law enforcement;

(continued over)

- Exceptions: pediatric products, precursors that aren't in a form conducive to making meth (like gel capsule or liquid), or where the precursor isn't the sole active ingredient, are exempt from the above provisions. However, Board of Pharmacy can change this.

- **Crime Definitions:** 152.021, subd. 2a
(Applies to crimes committed on or after Aug. 1, 2005)
 - (a) “A person is guilty of controlled substance crime in the first degree if the person manufactures any amount of methamphetamine.”
 - ✓ Penalties for First Offenses:
 - up to 30 years prison, up to \$1 million fine, or both.
(didn't change)
 - ✓ Penalties for Subsequent Offenses:
 - at least 4 years and up to 40 years prison, and in addition, may be fined up to \$1 million. *(didn't change)*
 - (b) “A person is guilty of a crime if the person possesses any chemical reagents or precursors with the intent to manufacture methamphetamine.”
 - ✓ Penalties for First Offenses:
 - up to 10 years prison, up to \$20,000 fine, or both.
(was 3 years, \$5,000)
 - ✓ Penalties for Subsequent Offenses:
 - up to 15 years prison, up to \$30,000 fine, or both.
(was 4 years, \$5,000)
- **Anhydrous Ammonia and Container Crimes:**

A person may not

- purchase, possess, transfer or distribute any amount of anhydrous ammonia knowing that it will be used to make meth.
- put anhydrous ammonia in a container that is not designed, maintained, and authorized for it.
- use, deliver, receive, sell or transport a container designed and constructed to contain anhydrous ammonia without the express consent of the owner or authorized custodian of the container.
- tamper with any equipment or facility used to contain, store or transport anhydrous ammonia.

If one does any of these things, he/she has no cause of action for any damages arising out of this behavior, and is guilty of a felony

- ✓ Penalties (felony): up to 5 years prison, up to \$50,000 fine, or both.

- **Meth Crimes involving children and vulnerable adults**

- No person may manufacture or attempt to manufacture meth, store any chemical substance or paraphernalia for making meth, or store any meth waste products in the presence of a child (under 18) or vulnerable adult.
- These activities are also prohibited in
 - the residence of a child or vulnerable adult;
 - in a building, structure, conveyance or outdoor location where a child or vulnerable adult might reasonable be expected to be present;
 - in a room offered to the public for overnight accommodation; or
 - any multiple unit residential building.
- ✓ Penalties (felony): up to 5 years prison, \$10,000 fine, or both.
- Officer may take any child present in the area into protective custody. A child taken into protective custody shall be provided a health screening. A child who is not taken into protective custody but who is known to have been exposed to meth shall be offered health screening.
 - If a child is taken into custody, the officer shall notify the child's school of this fact.
- Officer shall make a report of suspected maltreatment of a vulnerable adult if he/she was present and possibly exposed to the meth, chemicals, or paraphernalia.

- **Restitution for Meth Crimes**

(Effective January 1, 2006)

- Court may require a person convicted of manufacturing or attempting to manufacture to pay restitution to all public entities that participated in any needed emergency response (the reasonable costs).
- Court may require restitution to a property owner who incurred removal or remediation costs.

- **County Responsibilities**
(Effective January 1, 2006)
 - Peace officer who arrests a person at a clandestine lab site shall notify the appropriate
 - county or local health department;
 - state duty officer; and
 - child protection services
 about the arrest and location of the site.
 - County or local public health department or sheriff shall order the property prohibited from being occupied or used until it has been assessed and remediated according to MDH's clandestine drug labs general cleanup guidelines.
 - Remediation (cleanup) must be by a contractor who will then verify it has been cleaned up according to guidelines. (Contractor is liable for any additional cleanup costs that are required after his/her verification.)
 - If a vehicle has been contaminated and authority can obtain certificate of title, the authority must report it to registrar of motor vehicles and forward the title to the registrar. The registrar will mark the title "contaminated by methamphetamine production."
 - Authority shall also record location of lab with the county recorder or registrar of titles.
- **Property sellers** must disclose knowledge of meth production on property. If they don't they are liable for remediation costs and attorney fees.

- **Meth Lab Cleanup Revolving Account**

- Loans will be made on a first-come, first-served basis to counties and cities for the remediation of clandestine lab sites. Loans will come from the public facility authority fund, and must be repaid.
- Counties and cities are eligible for loans if they:
 - 1) Identify a site designated as a clandestine lab by local public health or law enforcement;
 - 2) Require the site's property owner to remediate (cleanup);
 - 3) Certify that the property owner cannot pay for the remediation immediately;
 - 4) Certify that the property owner has not yet properly remediated the site;
 - 5) Issue a revenue bond, payable to the authority to secure the loan.
- The loan recipient (county or city) shall seek reimbursement from the property owner. A property tax assessment may be one of the ways the government can recover.
- "Counties and cities may incur debt under this section by resolution of the board or council authorizing issuance of a revenue bond to the authority. The county or city may secure and pay the revenue bond only with proceeds derived from the property containing the clandestine lab site. . . payments by the property owner, or similar revenues."