

March 21, 2005

S 686. METH. LAB PREVENTION ACT. *TO ADD PSEUDOEPHEDRINE, A CRITICAL INGREDIENT IN THE MANUFACTURE OF THE ILLEGAL DRUG METHAMPHETAMINE, TO SCHEDULE V OF THE CONTROLLED SUBSTANCES LIST, TO APPROPRIATE FUNDS TO THE DEPARTMENT OF JUSTICE TO COMBAT THE MANUFACTURE OF METHAMPHETAMINE, TO MAKE THE MANUFACTURE OF METHAMPHETAMINE IN A DWELLING THAT IS ONE OF FOUR OR MORE CONTIGUOUS DWELLINGS AN AGGRAVATING FACTOR, AND TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE ISSUES RELATING TO THE ABUSE OF METHAMPHETAMINE.*

Amends GS 90-93 and enacts new GS 15A-1340.16(d)(16b) as title indicates, effective December 1, 2005. As with other Schedule V controlled substances, prohibits pseudoephedrine sales to persons less than 18 years of age and requires that pharmacist maintain a record of the names and addresses of all pseudoephedrine purchasers. Further prohibits the purchase or receipt of more than nine grams of any mixture or product containing pseudoephedrine within any 30-day period, unless dispensed pursuant to a prescription, and to require that a person purchasing the drug provide photo identification showing the person's date of birth. Authorizes Comm'n for Mental Health, Developmental Disabilities, and Substance Abuse Services to exempt a product from Schedule V if the Comm'n finds that it is not used in the illegal manufacture of methamphetamine or if it has been formulated to prevent conversion into methamphetamine's active ingredient. As title indicates, appropriates \$836,000 for 2005-06 from the General Fund to Dep't of Justice for 13 new positions in State Bureau of Investigation beginning January 1, 2006. Authorizes Legislative Research Comm'n to study methamphetamine precursor abuse. If Comm'n undertakes study, act requires that Comm'n create study committee including 5 members appointed by the Speaker and 5 members by the President Pro Tem. and that Comm'n report study findings to the 2007 General Assembly.

Intro. by Dalton.

Ref. to Judiciary II

GS 15A, 90, APPROP, STUDY

April 26, 2005

S 686. METH. LAB PREVENTION ACT. Intro. 3/21/05. Senate committee substitute makes the following changes to 1st edition. Deletes appropriation to Dep't of Justice. Authorizes a multistate, wholesale distributor of any compound or mixture containing pseudoephedrine to continue to warehouse or store substance in the same manner that substance was stored before effective date of act. Makes technical changes.

April 28, 2005

S 686. METH. LAB PREVENTION ACT. Intro. 3/21/05. Senate amendment makes the following changes to 2nd edition. Amends new GS 90-93(g) to permit any person to request an exemption from Schedule V for a specific product. Places burden of proof on requestor and requires valid scientific study demonstrating that product has been formulated in a way that serves as an effective general deterrent to conversion of pseudoephedrine into methamphetamine. Requires Comm'n for Mental Health, Developmental Disabilities, and Substance Abuse Services to base exemption decision on consideration of five factors: (1) ease with which product may be converted into methamphetamine; (2) ease with which pseudoephedrine is extracted from product and in what form; (3) whether product has molecular lock that prevents conversion to methamphetamine; (4) presence of other ingredients making product less likely to be used in manufacture of methamphetamine; and (5) other data indicative of the risks of the product being used in the manufacture of methamphetamine or any other controlled substance.

July 25, 2005

S 686. METH. LAB PREVENTION ACT. Intro. 3/21/05. House committee substitute makes the following changes to 3rd edition. Deletes all provisions except new GS 15A-1340.16(d)(16b).

Enacts new Article 5D of GS Chapter 90 entitled the "Methamphetamine Lab Prevention Act of 2005" which includes the following provisions.

Pseudoephedrine sales restrictions. Act places the following restrictions on sales of products containing pseudoephedrine. (1) A product whose sole active ingredient is 30 mg of pseudoephedrine or more per tablet may be offered for sale only in blister packages. (2) All products containing a detectable quantity of pseudoephedrine or ephedrine base, their salts or isomers, or salts of their isomers may be offered for retail sale only as follows: (a) stored and sold behind a pharmacy counter; or (b) in stores without a pharmacy, stored behind a single counter or in a single locked container that is accessible only by a trained store employee and sold at a single designated register. (3) Requires that stores without a pharmacy also maintain continuous recorded video surveillance of the area where pseudoephedrine products are sold. Establishes specific requirements for the positioning and recording of cameras and the preservation of videos. Authorizes Comm'n for Mental Health, Developmental Disabilities, and Substance Abuse Services to exempt retailers from surveillance requirement upon proof that compliance with the requirements would be a substantial economic hardship and would be physically impracticable, and that retailer has implemented other acceptable security measures. (4) Permits non-prescription sales of pseudoephedrine products only to persons who are at least 18 years old and requires that retailer require purchaser to furnish photo identification that includes person's date of birth. (5) Requires that retailer maintain a record of all pseudoephedrine products purchased for two years and requires that purchasers sign a form that includes purchase information and statement specified in act that summarizes NC restrictions on pseudoephedrine sales. (6) For non-prescription purchases, limits each purchase of any pseudoephedrine product to two packages containing a combined total of six grams and prohibits the purchase of more than nine grams of pseudoephedrine products in any 30-day period. (7) Requires that retailers post signs summarizing sales restrictions and that employees participate in a training program sponsored by the NC Methamphetamine Abuse Task Force.

Penalties. Establishes the following penalties for a retailer's willful and knowing violation of the pseudoephedrine product sales restrictions: first offense – Class A1 misdemeanor; second offense and subsequent offenses – Class I felony. Also provides that a retailer convicted of a third offense will be permanently prohibited from engaging in pseudoephedrine product sales. Establishes the following penalties for a purchaser or employee who willfully and knowingly violates age and quantity restrictions on pseudoephedrine product sales: first offense – Class 1 misdemeanor; second offense – Class A1 misdemeanor; third and subsequent offenses – Class I felony. Also provides that a retailer who violates training requirements will be fined up to \$500 for a first violation, \$750 for a second violation, and \$1,000 for a third or subsequent violation.

Immunity/product exemption/preemption. Except for willful misconduct, provides that any person who reports alleged criminal activity connected with pseudoephedrine product sales or refuses to sell products to a customer who person reasonably believes is ineligible for product purchase is immune from civil liability for those acts. Effective September 1, 2005, authorizes the Comm'n to exempt certain products from Article's requirements if it is proven that either the product has been formulated to deter its conversion to methamphetamine or the product's conversion is so costly it is unlikely that it would be used in the production of methamphetamine. Lists factors that the Comm'n must consider in deciding whether an exemption should be granted. Article preempts all local acts governing pseudoephedrine product sales.

NC Methamphetamine Abuse Task Force. Establishes 20-member Task Force effective when act becomes law. Requires that Task Force study the abuse of methamphetamine and the feasibility of developing electronic tracking of pseudoephedrine product sales, and develop training and education programs for retail employees and citizens. Requires that Task Force submit its first report on December 1, 2005.

Amends GS 106-145.2(9) to include pseudoephedrine products in the definition of prescription drugs for purposes of Article requiring licensure of prescription drug wholesalers. Enacts the following new provisions: (1) GS 106-145.13 to require that wholesale distributors of pseudoephedrine products submit a report to the State Bureau of Investigation every 30 days listing all pseudoephedrine product transactions with NC persons or businesses within the preceding month; (2) GS 14-72(b)(6) to make the theft of any product containing pseudoephedrine a Class H felony, except thefts by the store's employees; (3) GS 66-254.1 prohibiting certain itinerant merchants and specialty market vendors from selling pseudoephedrine products and drugs listed in GS 106-121(6) and making violation of section a Class 1

misdemeanor for the first offense, a ClassA1 misdemeanor for the second offense, and a Class I felony for a third or subsequent offense; and (4) GS 15A-736.1 to provide that evidence of a person's arrest for the manufacture of methamphetamine or the possession of a precursor and the person's dependence upon or regular use of methamphetamine establish a rebuttable presumption that no conditions of release on bond would assure community safety. Unless otherwise noted, act is effective January 1, 2006, and applies to offenses committed on or after that date (3rd edition was effective July 1, 2005). Conforms title.

August 30, 2005

S 686. METH. LAB PREVENTION ACT. Intro. 3/21/05. Conference report recommends the following changes to 4th edition to reconcile matters in controversy. (1) Rewrites provisions regarding sale and storage of pseudoephedrine products as follows. In retail establishments that have a pharmacy on premises, tablets and caplets containing pseudoephedrine must be stored and sold behind the pharmacy counter. In retail establishments that do not have a pharmacy on premises, prohibits sale of tablets or caplets containing pseudoephedrine as the sole active ingredient and provides that tablets and caplets containing pseudoephedrine in combination with other active ingredients (a) must be stored behind a single counter or barrier or in a single locked container so that they are not accessible by the public and are accessible only by an employee who has been trained as required by act, and (b) may be sold only at a single designated register. In all retail establishments, requires that pseudoephedrine products in the form of liquids, liquid capsules, or gel capsules must be stored behind a single counter or barrier or in a single locked container so that they are not accessible by the public and are accessible only by an employee who has been trained as required by act, and may be sold only at a single designated register. (2) Deletes provisions requiring retail establishments without a pharmacy to maintain continuous surveillance of areas involving pseudoephedrine transactions. (3) Adds provision requiring retailers to implement at least one additional security measure in the area of the premises where pseudoephedrine products are offered for sale and allows Commission on Mental Health, Developmental Disabilities, and Substance Abuse Services (MHDDSAS) to adopt temporary or permanent rules regarding additional security measures. (4) Deletes provisions regarding North Carolina Methamphetamine Abuse Task Force. (5) Requires MHDDSAS Commission to develop training and education programs for employees of establishments where pseudoephedrine products are sold and to approve these programs for implementation by retailers. (6) Rewrites provisions regarding MHDDSAS Commission's authority to control pseudoephedrine products as follows. After public hearing and findings, Commission may add or delete a specific pseudoephedrine product from requirements of act on petition of an interested party or on its own motion and may modify specific storage and security requirements applicable to a particular product. Retains provisions of 4th edition regarding factors that must be considered. (7) Deletes provisions making theft of pseudoephedrine products a felony larceny. (8) Adds provisions establishing Legislative Commission on Methamphetamine Abuse as follows. Commission consists of 22 members, including two Senators appointed by the Senate President Pro Tem., two Representatives appointed by the Speaker of the House, the Attorney General (or designee), the Governor (or designee), the Secretary of Health and Human Services (or designee), the Director of the State Bureau of Investigation (or designee), the chair of the MHDDSAS Commission (or designee), additional federal and state public officials, and additional representatives of designated agencies or associations appointed by the Senate President Pro Tem. or the Speaker of the House. Requires Commission to study issues regarding the abuse of methamphetamine precursors and other specified issues related to methamphetamine abuse. Requires Commission to report its activities and recommendations to the General Assembly annually and to make its first report by November 1, 2005. (9) Requires State Bureau of Investigation to study issues regarding use of pseudoephedrine products to make methamphetamine, to report annually to the MHDDSAS Commission, the Legislative Commission on Methamphetamine Abuse, and the Joint Governmental Operations Subcommittee on Justice and Public Safety, and to submit an initial report by November 1, 2006. (10) Adds a severability clause. (11) Makes act effective as follows. New GS 90-113.59 (MHDDSAS Commission authority to control pseudoephedrine products) and provisions summarized in (8), (9), and (10) above are effective when act becomes law. Remaining provisions are effective January 1, 2006, and apply to offenses committed on or after that date.

July 19, 2006

S 686. METH. LAB PREVENTION ACT. Filed 3/17/05. New conference report recommends the following changes to 4th edition to reconcile matters in controversy. Deletes the entire 4th edition, and substitutes *AN ACT TO AMEND RESTRICTIONS ON THE PURCHASE AND SALE OF PSEUDOEPHEDRINE PRODUCTS CONTAINED IN ARTICLE 5D OF CHAPTER 90 OF THE GENERAL STATUTES, THE "METHAMPHETAMINE LAB PREVENTION ACT OF 2005," IN ORDER TO COMPLY WITH FEDERAL LAW, AND TO MAKE OTHER CONFORMING CHANGES.* (1) Amends GS 90-113.52(a) to require that pseudoephedrine products in a tablet, caplet, or gel cap form be offered for sale only in blister packages (was, required that products with a sole active ingredient of 30 milligrams or more per tablet or caplet be offered for sale only in blister packages). (2) Amends GS 90-113.53(a) to prohibit the retail purchase or delivery of more than two packages containing a combined total of more than 3.6 grams of any pseudoephedrine products per calendar day (was, prohibited the sale in a single transaction of more than two packages containing a combined total of more than 6 grams of pseudoephedrine products). (3) Amends GS 90-113.52(c) to conform the statement required to be placed on the record of disposition of pseudoephedrine products to reflect changes made to GS 90-113.53(a). Further amends subsection to authorize retailers to provide the required statement to consumers in an electronic format and to require that those retailers display the statement on a sign adjacent to the device used for that purpose and include an additional statement, as described in the section, on the electronic form. (4) Amends GS 90-113.54(a) to allow pseudoephedrine retailers to post a sign that contains language substantially similar to that provided for in subsection. Also enacts new GS 90-113.54(b) to provide that the section does not apply to pseudoephedrine products in liquid, liquid capsule, or gel capsule form, or pediatric products labeled as being intended for administration to children under 12 years of age, except as ordered by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services. Enacts new GS 90-113.61, effective September 30, 2006, to provide that although those products described in GS 90-113.54(b) are not subject to the requirements of Article 5D of GS Chapter 90, they are subject to the requirements of the federal Combat Methamphetamine Act of 2005.

August 4, 2006

SL 2006-186 (S 686). METH. LAB PREVENTION ACT. AN ACT TO AMEND RESTRICTIONS ON THE PURCHASE AND SALE OF PSEUDOEPHEDRINE PRODUCTS CONTAINED IN ARTICLE 5D OF CHAPTER 90 OF THE GENERAL STATUTES, THE "METHAMPHETAMINE LAB PREVENTION ACT OF 2005," IN ORDER TO COMPLY WITH FEDERAL LAW, AND TO MAKE OTHER CONFORMING CHANGES. Summarized in *Daily Bulletin* 3/21/05, 4/26/05, 4/28/05, 7/25/05, 8/30/05, and 7/19/06. Enacted August 3, 2006. Section 4 is effective September 30, 2006. The remainder is effective August 3, 2006.