



HOUSE COMMITTEE ON APPROPRIATIONS

2009-10 Legislative Session

FISCAL NOTE

SENATE BILL: 125

PRINTER'S NO: 1333

PRIME SPONSOR: **Gordner**

| FISCAL IMPACT SUMMARY | FY 2009/10 | FY 2010/11 |
|---|---------------|---------------|
| Expenditure Increase/(Decrease): | | |
| General Fund | *See Analysis | *See Analysis |

OVERVIEW:

Senate Bill 125 amends the Controlled Substance Act by adding new subsections related to methamphetamine compounds and methamphetamine production.

This legislation add a new subsection that prohibits the knowing possession of ephedrine, pseudoephedrine, phenylpropanolamine or a product containing ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers or salts of optical isomers with the intent to manufacture methamphetamine.

Senate Bill 125 also adds a new subsection related to methamphetamine production providing that proof a person had in his possession more than 40 grams or 15 packages of any drug containing ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers or salts of optical isomers as an active ingredient shall give rise to a rebuttable presumption that the person acted with intent to manufacture methamphetamine. Proof that a person had in his possession any amount of the above chemicals and at the same time possessed any amount of any precursor substance shall give rise to a rebuttable presumption that the person acted with the intent to manufacture methamphetamine. The provisions of these new subsections do not apply to a licensed pharmaceutical manufacturer, wholesalers, sale representatives of licensed manufacturers or wholesalers, pharmacists or licensed health care providers who lawfully market, transport, deliver or dispense a product related to the compounds/chemicals used in the manufacture of methamphetamine.

Under this bill, a new subsection provides that a person commits offense of operating a methamphetamine laboratory if the person knowingly causes a chemical reaction involving ephedrine, pseudoephedrine or phenylpropanolamine or any of their salts, optical isomers or salt of optical isomers for the purpose of manufacturing methamphetamine. Violation of this new subsection is a second degree felony and the individual is subject to 18 PA.C.S §1110 (related to restitution for cleanup of clandestine laboratories). However, violation of this new subsection increases to a felony of the first degree (including restitution) when the chemical reaction occurs within 1,000 feet of a school, nursery, or day care center. This section does not apply to the manufacturing operation of a licensed pharmaceutical company in the normal course of business.

Senate Bill 125 provides that a person commits a felony of the third degree if he intentionally, knowingly or recklessly deposits, stores, or disposes on any property a precursor substance, chemical waste or debris, used in or resulting from the manufacture of methamphetamine. This does not apply to the disposal of waste products by a licensed pharmaceutical company.

In addition to restitution under 18 PA.C.S. §1110, a person who is convicted of an offense of operating a methamphetamine laboratory will be required to reimburse the appropriate agency for the costs of cleaning up the environmental hazards associated with the operation of the laboratory or the dumping of any waste from methamphetamine production.

This act shall take effect in 60 days.

ANALYSIS:

Some individuals that would be convicted for violations under Senate Bill 125 are currently being convicted under various other statutes. Quantifying the fiscal impact of Senate Bill 125 is not possible. While this legislation is expected to have minimal fiscal impact, if considered in conjunction with other legislation that increases the grading of penalties or creates new penalties, the impact to state and/or local governments may be substantial.

The average cost in 2008 for incarcerating an offender in a state correctional institution is almost \$35,000 per year (including health care). According to the Board of Probation and Parole, in 2008 the average cost for state parole supervision was \$3,139 per year. The average cost in 2008 for incarceration in a county jail is approximately \$50 per day or \$18,250 per year. The average cost for supervising a county adult offender in 2007 was \$680 per year.

Where the clean-up of a methamphetamine laboratory or the site of illegal dumping of methamphetamine waste becomes an issue, a number of agencies may be involved (fire companies, hazmat, local police, State Police, emergency medical services, private companies). According to the Pennsylvania Farm Bureau clean up costs range from \$1,000 to \$100,000.

PREPARED BY: Rayko Pacana, Budget Analyst
House Appropriations Committee, (D)

DATE: January 25, 2010

General Note and Disclaimer: *This Fiscal Note was prepared pursuant to House Rule 19(a), and the elements considered and reported above are required by Section 5 of the rule. Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*