

CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT - OFFENSES  
OF METHAMPHETAMINE PRODUCTION, OPERATING A METHAMPHETAMINE  
LABORATORY, ILLEGAL DUMPING OF METHAMPHETAMINE WASTE AND  
ENVIRONMENTAL COSTS AND PROHIBITED ACTS AND PENALTIES

Act of Feb. 17, 2010, P.L. 137, No. 8

Cl. 35

Session of 2010

No. 2010-8

SB 125

AN ACT

Amending the act of April 14, 1972 (P.L.233, No.64), entitled "An act relating to the manufacture, sale and possession of controlled substances, other drugs, devices and cosmetics; conferring powers on the courts and the secretary and Department of Health, and a newly created Pennsylvania Drug, Device and Cosmetic Board; establishing schedules of controlled substances; providing penalties; requiring registration of persons engaged in the drug trade and for the revocation or suspension of certain licenses and registrations; and repealing an act," further providing for prohibited acts and penalties; and providing for methamphetamine production, for the offenses of operating a methamphetamine laboratory and illegal dumping of methamphetamine waste and for environmental costs.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 13(c) of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, amended December 14, 1984 (P.L.988, No.200), is amended and subsection (a) is amended by adding a clause to read:

Section 13. Prohibited Acts; Penalties.--(a) The following acts and the causing thereof within the Commonwealth are hereby prohibited:

\* \* \*

**(39) 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.**

\* \* \*

(c) Any person who violates the provisions of clauses (21), (22) [and (24)], **(24) and (39)** of subsection (a) shall be guilty of a misdemeanor, and shall, on conviction thereof, be punished only as follows:

(1) Upon conviction of the first such offense, he shall be sentenced to imprisonment not exceeding six months, or to pay a fine not exceeding ten thousand dollars (\$10,000), or both.

(2) Upon conviction of the second and subsequent offense, he shall be sentenced to imprisonment not exceeding two years, or to pay a fine not exceeding twenty-five thousand dollars (\$25,000), or both.

\* \* \*

Section 2. The act is amended by adding sections to read:

Section 13.3. Methamphetamine Production.--(a) Proof that 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.

(b) Proof that a person had in his possession any amount of ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers or salts of optical isomers as an active ingredient and at the same time possessed any amount of any precursor substance under section 13.1 shall give rise to a rebuttable presumption that the person acted with intent to manufacture methamphetamine.

(c) The provisions of this section shall not apply to a licensed pharmaceutical manufacturer, wholesaler, or the sales representative of a licensed manufacturer or wholesaler, or to a licensed pharmacist or licensed health care professional, or to any other person engaged by a licensed manufacturer, wholesaler, pharmacist or health care provider, who lawfully markets, transports, delivers or dispenses a product containing ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers or salts of optical isomers.

Section 13.4. Operating a Methamphetamine Laboratory and Illegal Dumping of Methamphetamine Waste.--(a) (1) A person commits the 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 salts of optical isomers for the purpose of manufacturing methamphetamine or preparing a precursor substance for the manufacture of methamphetamine.

(2) Except as provided in clause (3), an offense under this subsection constitutes a felony of the second degree and is subject to 18 Pa.C.S. § 1110 (relating to restitution for cleanup of clandestine laboratories).

(3) A person who violates this subsection commits a felony of the first degree and is subject to 18 Pa.C.S. § 1110 if the chemical reaction occurs within 1,000 feet of the real property on which is located a public, private or parochial school, a college or university or a nursery school or daycare center or within 250 feet of the real property on which is located a recreation center or playground.

(4) This subsection does not apply to the manufacturing operation of a licensed pharmaceutical company in the normal course of business.

(b) (1) 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 or the preparation of a precursor substance for the manufacture of methamphetamine.

(2) Clause (1) does not apply to the disposal of waste products:

(i) by a licensed pharmaceutical company in the normal course of business; or

(ii) pursuant to Federal or State laws regulating the cleanup or disposal of waste products from unlawful manufacturing of methamphetamine.

(c) In addition to restitution under 18 Pa.C.S. § 1110, a person who is convicted of an offense under subsection (a) or the use of a precursor substance to manufacture methamphetamine shall be ordered to reimburse the appropriate

law enforcement agency, emergency medical services organization, fire company or other organization for the costs of cleaning up the environmental hazards associated with the operation of the laboratory or the use of a precursor substance to manufacture methamphetamine.

Section 13.5. Environmental Costs.--In addition to restitution under 18 Pa.C.S. § 1110 (relating to restitution for cleanup of clandestine laboratories), a person who is convicted of an offense involving the operation of a methamphetamine laboratory or the use of a precursor substance to manufacture methamphetamine shall be ordered to reimburse the appropriate law enforcement agency, emergency medical services organization, fire company or other organization for the costs of cleaning up the environmental hazards associated with the operation of the laboratory or the use of a precursor substance to manufacture methamphetamine.

Section 3. This act shall take effect in 60 days.

APPROVED--The 17th day of February, A.D. 2010.

EDWARD G. RENDELL