

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## SENATE BILL

No. 126 Session of  
2009

INTRODUCED BY GORDNER, ORIE, RAFFERTY, COSTA, BOSCOLA, EARLL,  
ALLOWAY, BAKER, EICHELBERGER, ERICKSON, FONTANA, KASUNIC,  
KITCHEN, LOGAN, O'PAKE, ROBBINS, TARTAGLIONE, TOMLINSON,  
WAUGH, D. WHITE, WILLIAMS, WOZNIAK, YAW, WONDERLING AND  
WASHINGTON, JANUARY 30, 2009

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF  
REPRESENTATIVES, AS AMENDED, MARCH 10, 2010

## AN ACT

1 Amending the act of April 14, 1972 (P.L.233, No.64), entitled  
2 "An act relating to the manufacture, sale and possession of  
3 controlled substances, other drugs, devices and cosmetics;  
4 conferring powers on the courts and the secretary and  
5 Department of Health, and a newly created Pennsylvania Drug,  
6 Device and Cosmetic Board; establishing schedules of  
7 controlled substances; providing penalties; requiring  
8 registration of persons engaged in the drug trade and for the  
9 revocation or suspension of certain licenses and  
10 registrations; and repealing an act," ~~providing for~~  
11 ~~environmental costs.~~ FURTHER PROVIDING FOR PROHIBITED ACTS  
12 AND PENALTIES, FOR LIQUEFIED AMMONIA GAS, PRECURSORS AND  
13 CHEMICALS, FOR METHAMPHETAMINE PRODUCTION, FOR OPERATING A  
14 METHAMPHETAMINE LABORATORY AND ILLEGAL DUMPING OF  
15 METHAMPHETAMINE WASTE AND FOR ENVIRONMENTAL COSTS.

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

18 ~~Section 1. The act of April 14, 1972 (P.L.233, No.64), known~~  
19 ~~as The Controlled Substance, Drug, Device and Cosmetic Act, is~~  
20 ~~amended by adding a section to read:~~

21 ~~Section 13.3. Environmental Costs. In addition to~~  
22 ~~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 2. This act shall take effect in 60 days.~~

SECTION 1. SECTION 13(A) (39) OF THE ACT OF APRIL 14, 1972  
(P.L.233, NO.64), KNOWN AS THE CONTROLLED SUBSTANCE, DRUG,  
DEVICE AND COSMETIC ACT, ADDED FEBRUARY 17, 2010 (P.L. , NO.8),  
IS AMENDED 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[,]  
OR 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.

\* \* \*

SECTION 2. SECTION 13.1 OF THE ACT, ADDED JULY 15, 2004  
(P.L.729, NO.84), IS AMENDED TO READ:

SECTION 13.1. LIQUEFIED AMMONIA GAS; PRECURSORS AND  
CHEMICALS.--(A) THE FOLLOWING ACTS ARE PROHIBITED:

(1) POSSESSING OR TRANSPORTING LIQUEFIED AMMONIA GAS:

(I) FOR ANY PURPOSE OTHER THAN LEGITIMATE AGRICULTURAL OR

1 INDUSTRIAL USE; OR

2 (II) IN A CONTAINER NOT APPROVED BY THE DEPARTMENT OF  
3 AGRICULTURE OR THE DEPARTMENT OF TRANSPORTATION OR BOTH.

4 (2) POSSESSING OR TRANSPORTING LIQUEFIED AMMONIA GAS WITH  
5 INTENT TO MANUFACTURE A CONTROLLED SUBSTANCE.

6 (3) POSSESSING RED PHOSPHOROUS, HYPOPHOSPHORIC ACID,  
7 AMMONIUM SULFATE, PHOSPHOROUS, IODINE, HYDRIODIC ACID,  
8 EPHEDRINE, PSEUDOEPHEDRINE, LITHIUM, SODIUM, POTASSIUM,  
9 SASSAFRAS OIL, SAFROLE OIL OR OTHER OIL CONTAINING SAFROLE OR  
10 EQUIVALENT, WHETHER IN POWDER OR LIQUID FORM,  
11 PHENYLPROPANOLAMINE, PHENYL ACETONE, METHYLAMINE, AMMONIUM  
12 SULFATE, AMMONIUM NITRATE OR PHENYL ACETIC ACID WITH INTENT TO  
13 MANUFACTURE A CONTROLLED SUBSTANCE.

14 (4) POSSESSING THE ESTERS, SALTS, OPTICAL ISOMERS OR SALTS  
15 OF OPTICAL ISOMERS OF ANY OF THE SUBSTANCES UNDER CLAUSE (3)  
16 WITH INTENT TO MANUFACTURE A CONTROLLED SUBSTANCE.

17 (B) A PERSON WHO VIOLATES SUBSECTION (A) (1) COMMITS A  
18 MISDEMEANOR AND UPON CONVICTION SHALL BE SENTENCED TO  
19 IMPRISONMENT NOT EXCEEDING FIVE YEARS AND TO PAY A FINE NOT  
20 EXCEEDING TEN THOUSAND DOLLARS (\$10,000).

21 (C) A PERSON WHO VIOLATES SUBSECTION (A) (2) OR (3) COMMITS A  
22 FELONY AND UPON CONVICTION SHALL BE SENTENCED TO IMPRISONMENT  
23 NOT EXCEEDING SEVEN YEARS AND TO PAY A FINE NOT EXCEEDING  
24 FIFTEEN THOUSAND DOLLARS (\$15,000).

25 SECTION 3. SECTIONS 13.3, 13.4 AND 13.5 OF THE ACT, ADDED  
26 FEBRUARY 17, 2010 (P.L. , NO.8), ARE AMENDED TO READ:

27 SECTION 13.3. METHAMPHETAMINE PRODUCTION.--(A) PROOF THAT A  
28 PERSON HAD IN HIS POSSESSION MORE THAN 40 GRAMS OR 15 PACKAGES  
29 OF ANY DRUG CONTAINING EPHEDRINE, PSEUDOEPHEDRINE[, ] OR  
30 PHENYLPROPANOLAMINE, OR ANY OF THEIR SALTS, OPTICAL ISOMERS OR

1 SALTS OF OPTICAL ISOMERS AS AN ACTIVE INGREDIENT SHALL GIVE RISE  
2 TO A REBUTTABLE PRESUMPTION THAT THE PERSON ACTED WITH INTENT TO  
3 MANUFACTURE METHAMPHETAMINE.

4 (B) PROOF THAT A PERSON HAD IN HIS POSSESSION ANY AMOUNT OF  
5 EPHEDRINE, PSEUDOEPHEDRINE[, ] OR PHENYLPROPANOLAMINE, OR ANY OF  
6 THEIR SALTS, OPTICAL ISOMERS OR SALTS OF OPTICAL ISOMERS [AS AN  
7 ACTIVE INGREDIENT] AND AT THE SAME TIME POSSESSED ANY AMOUNT OF  
8 ANY [PRECURSOR] OTHER PRECURSOR OR REAGENT SUBSTANCE UNDER  
9 SECTION 13.1 SHALL GIVE RISE TO A REBUTTABLE PRESUMPTION THAT  
10 THE PERSON ACTED WITH INTENT TO MANUFACTURE METHAMPHETAMINE.

11 (C) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO A  
12 LICENSED PHARMACEUTICAL MANUFACTURER, WHOLESALER, OR THE SALES  
13 REPRESENTATIVE OF A LICENSED MANUFACTURER OR WHOLESALER, OR TO A  
14 LICENSED PHARMACIST OR LICENSED HEALTH CARE PROFESSIONAL, OR TO  
15 ANY OTHER PERSON ENGAGED BY A LICENSED MANUFACTURER, WHOLESALER,  
16 PHARMACIST OR HEALTH CARE PROVIDER, WHO LAWFULLY MARKETS,  
17 TRANSPORTS, DELIVERS OR DISPENSES A PRODUCT CONTAINING  
18 EPHEDRINE, PSEUDOEPHEDRINE[, ] OR PHENYLPROPANOLAMINE, OR ANY OF  
19 THEIR SALTS, OPTICAL ISOMERS OR SALTS OF OPTICAL ISOMERS.

20 SECTION 13.4. OPERATING A METHAMPHETAMINE LABORATORY AND  
21 ILLEGAL DUMPING OF METHAMPHETAMINE WASTE.-- (A) (1) A PERSON  
22 COMMITS THE OFFENSE OF OPERATING A METHAMPHETAMINE LABORATORY IF  
23 THE PERSON KNOWINGLY CAUSES A CHEMICAL REACTION INVOLVING  
24 EPHEDRINE, PSEUDOEPHEDRINE OR PHENYLPROPANOLAMINE [OR ANY OF  
25 THEIR SALTS, OPTICAL ISOMERS OR SALTS OF OPTICAL ISOMERS], OR  
26 ANY OTHER PRECURSOR OR REAGENT SUBSTANCE UNDER SECTION 13.1, FOR  
27 THE PURPOSE OF MANUFACTURING METHAMPHETAMINE OR PREPARING A  
28 PRECURSOR OR REAGENT SUBSTANCE FOR THE MANUFACTURE OF  
29 METHAMPHETAMINE.

30 (2) EXCEPT AS PROVIDED IN CLAUSE (3), AN OFFENSE UNDER THIS

1 SUBSECTION CONSTITUTES A FELONY OF THE SECOND DEGREE AND IS ALSO  
2 SUBJECT TO 18 PA.C.S. § 1110 (RELATING TO RESTITUTION FOR  
3 CLEANUP OF CLANDESTINE LABORATORIES).

4 (3) A PERSON WHO VIOLATES THIS SUBSECTION COMMITS A FELONY  
5 OF THE FIRST DEGREE [AND IS SUBJECT TO 18 PA.C.S. § 1110] IF THE  
6 CHEMICAL REACTION OCCURS WITHIN 1,000 FEET OF THE REAL PROPERTY  
7 ON WHICH IS LOCATED A PUBLIC, PRIVATE OR PAROCHIAL SCHOOL, A  
8 COLLEGE OR UNIVERSITY OR A NURSERY SCHOOL OR DAYCARE CENTER OR  
9 WITHIN 250 FEET OF THE REAL PROPERTY ON WHICH IS LOCATED A  
10 RECREATION CENTER OR PLAYGROUND. THE PERSON SHALL ALSO BE  
11 SUBJECT TO 18 PA.C.S. § 1110.

12 (4) THIS SUBSECTION DOES NOT APPLY TO THE MANUFACTURING  
13 OPERATION OF A LICENSED PHARMACEUTICAL COMPANY IN THE NORMAL  
14 COURSE OF BUSINESS.

15 (B) (1) A PERSON COMMITS A FELONY OF THE THIRD DEGREE IF HE  
16 INTENTIONALLY, KNOWINGLY OR RECKLESSLY DEPOSITS, STORES OR  
17 DISPOSES ON ANY PROPERTY A PRECURSOR OR REAGENT SUBSTANCE,  
18 CHEMICAL WASTE OR DEBRIS, USED IN OR RESULTING FROM THE  
19 MANUFACTURE OF METHAMPHETAMINE OR THE PREPARATION OF A PRECURSOR  
20 OR REAGENT SUBSTANCE FOR THE MANUFACTURE OF METHAMPHETAMINE.

21 (2) CLAUSE (1) DOES NOT APPLY TO THE DISPOSAL OF WASTE  
22 PRODUCTS:

23 (I) BY A LICENSED PHARMACEUTICAL COMPANY IN THE NORMAL  
24 COURSE OF BUSINESS; OR

25 (II) PURSUANT TO FEDERAL OR STATE LAWS REGULATING THE  
26 CLEANUP OR DISPOSAL OF WASTE PRODUCTS FROM UNLAWFUL  
27 MANUFACTURING OF METHAMPHETAMINE.

28 (C) IN ADDITION TO RESTITUTION UNDER 18 PA.C.S. § 1110, A  
29 PERSON WHO IS CONVICTED OF AN OFFENSE UNDER [SUBSECTION (A) OR  
30 THE USE OF A PRECURSOR SUBSTANCE TO MANUFACTURE METHAMPHETAMINE]

1 THIS SECTION SHALL BE ORDERED TO REIMBURSE THE APPROPRIATE LAW  
2 ENFORCEMENT AGENCY, EMERGENCY MEDICAL SERVICES ORGANIZATION,  
3 FIRE COMPANY OR OTHER ORGANIZATION FOR THE COSTS OF CLEANING UP  
4 THE ENVIRONMENTAL HAZARDS ASSOCIATED WITH THE OPERATION OF THE  
5 LABORATORY OR THE POSSESSION OR USE OF A PRECURSOR OR REAGENT  
6 SUBSTANCE TO MANUFACTURE METHAMPHETAMINE.

7 SECTION 13.5. ENVIRONMENTAL COSTS.--IN ADDITION TO  
8 RESTITUTION UNDER 18 PA.C.S. § 1110 (RELATING TO RESTITUTION FOR  
9 CLEANUP OF CLANDESTINE LABORATORIES), A PERSON WHO IS CONVICTED  
10 OF AN OFFENSE INVOLVING THE OPERATION OF A METHAMPHETAMINE  
11 LABORATORY OR THE POSSESSION OR USE OF A PRECURSOR OR REAGENT  
12 SUBSTANCE TO MANUFACTURE METHAMPHETAMINE SHALL BE ORDERED TO  
13 REIMBURSE THE APPROPRIATE LAW ENFORCEMENT AGENCY, EMERGENCY  
14 MEDICAL SERVICES ORGANIZATION, FIRE COMPANY OR OTHER  
15 ORGANIZATION FOR THE COSTS OF CLEANING UP THE ENVIRONMENTAL  
16 HAZARDS ASSOCIATED WITH THE OPERATION OF THE LABORATORY OR THE  
17 POSSESSION OR USE OF A PRECURSOR OR REAGENT SUBSTANCE TO  
18 MANUFACTURE METHAMPHETAMINE.

19 SECTION 4. THIS ACT SHALL TAKE EFFECT APRIL 19, 2010, OR  
20 IMMEDIATELY, WHICHEVER IS LATER.