



House of Representatives

General Assembly

File No. 482

February Session, 2008

House Bill No. 5037

House of Representatives, April 7, 2008

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING METHAMPHETAMINES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 21a-240 of the general statutes is amended by
2 adding subdivision (59) as follows (*Effective October 1, 2008*):

3 (NEW) (59) "Methamphetamine-type substances" means
4 methamphetamine and structural analogues, including, but not limited
5 to, methylenedioxymethamphetamine and other substituted
6 phenylethylamine compounds, their salts, isomers and salts of isomers
7 and chemical compounds that are similar thereto in chemical structure
8 or that are similar thereto in physiological effect, and that show a like
9 potential for abuse or that are controlled substances under this chapter,
10 unless modified.

11 Sec. 2. Section 21a-277 of the general statutes is repealed and the
12 following is substituted in lieu thereof (*Effective October 1, 2008*):

13 (a) Any person who manufactures, distributes, sells, prescribes,

14 dispenses, compounds, transports with the intent to sell or dispense,
15 possesses with the intent to sell or dispense, offers, gives or
16 administers to another person any controlled substance [which] that is
17 (1) a hallucinogenic substance other than marijuana, [or] (2) a narcotic
18 substance, or (3) a methamphetamine-type substance, except as
19 authorized in this chapter, for a first offense, shall be imprisoned not
20 more than fifteen years and may be fined not more than fifty thousand
21 dollars or be both fined and imprisoned; and for a second offense shall
22 be imprisoned not more than thirty years and may be fined not more
23 than one hundred thousand dollars, or be both fined and imprisoned;
24 and for each subsequent offense, shall be imprisoned not more than
25 thirty years and may be fined not more than two hundred fifty
26 thousand dollars, or be both fined and imprisoned.

27 (b) Any person who manufactures, distributes, sells, prescribes,
28 dispenses, compounds, transports with intent to sell or dispense,
29 possesses with intent to sell or dispense, offers, gives or administers to
30 another person any controlled substance, except [a narcotic substance,
31 or] (1) a hallucinogenic substance other than marijuana, (2) a narcotic
32 substance, or (3) a methamphetamine-type substance, except as
33 authorized in this chapter, may, for the first offense, be fined not more
34 than twenty-five thousand dollars or be imprisoned not more than
35 seven years or be both fined and imprisoned; and, for each subsequent
36 offense, may be fined not more than one hundred thousand dollars or
37 be imprisoned not more than fifteen years, or be both fined and
38 imprisoned.

39 (c) No person shall knowingly possess drug paraphernalia in a drug
40 factory situation, as defined by subdivision (20) of section 21a-240, for
41 the unlawful mixing, compounding or otherwise preparing any
42 controlled substance for purposes of violation of this chapter. Any
43 person who violates the provisions of this subsection may, for the first
44 offense, be fined not more than one thousand dollars or be imprisoned
45 not more than two years, or be both fined and imprisoned, except that
46 if such drug paraphernalia is for the unlawful mixing, compounding
47 or otherwise preparing a methamphetamine-type substance, such

48 person may be fined not more than five thousand dollars or be
49 imprisoned not more than five years, or be both fined and imprisoned.
50 Any person who violates the provisions of this subsection may, for a
51 subsequent offense, be fined not more than ten thousand dollars or be
52 imprisoned not more than ten years, or be both fined and imprisoned.

53 (d) As an alternative to the sentences specified in subsections (a)
54 and (b) of this section, the court may sentence the person to the
55 custody of the Commissioner of Correction for an indeterminate term
56 not to exceed three years or the maximum term specified for the
57 offense, whichever is the lesser, and, at any time within such
58 indeterminate term and without regard to any other provision of law
59 regarding minimum term of confinement, the Commissioner of
60 Correction may release the convicted person so sentenced subject to
61 such conditions as he may impose including, but not limited to,
62 supervision by suitable authority. At any time during such
63 indeterminate term, the Commissioner of Correction may revoke any
64 such conditional release in his discretion for violation of the conditions
65 imposed and return the convicted person to a correctional institution.

66 Sec. 3. Subsection (a) of section 21a-278 of the 2008 supplement to
67 the general statutes is repealed and the following is substituted in lieu
68 thereof (*Effective October 1, 2008*):

69 (a) Any person who manufactures, distributes, sells, prescribes,
70 dispenses, compounds, transports with the intent to sell or dispense,
71 possesses with the intent to sell or dispense, offers, gives or
72 administers to another person one or more preparations, compounds,
73 mixtures or substances containing an aggregate weight of one ounce or
74 more of heroin or methadone or an aggregate weight of one-half ounce
75 or more of cocaine or one-half ounce or more of cocaine in a free-base
76 form, or an aggregate weight of fifty grams or more of
77 methamphetamine-type substance, or a substance containing five
78 milligrams or more of lysergic acid diethylamide, except as authorized
79 in this chapter, and who is not, at the time of such action, a drug-
80 dependent person, shall be imprisoned for a minimum term of not less

81 than five years or more than twenty years; and, a maximum term of
82 life imprisonment. The execution of the mandatory minimum sentence
83 imposed by the provisions of this subsection shall not be suspended,
84 except the court may suspend the execution of such mandatory
85 minimum sentence if at the time of the commission of the offense (1)
86 such person was under the age of eighteen years, or (2) such person's
87 mental capacity was significantly impaired, but not so impaired as to
88 constitute a defense to prosecution.

89 Sec. 4. (NEW) (*Effective July 1, 2008*) (a) There is established an
90 account to be known as the "methamphetamine laboratory clean-up
91 account" which shall be a separate, nonlapsing account within the
92 General Fund. The account may contain any moneys required by law
93 to be deposited in the account. Any balance remaining in the account
94 at the end of any fiscal year shall be carried forward in the account for
95 the next fiscal year. All moneys deposited in the account shall be used
96 for the purposes of this section.

97 (b) The court, when sentencing a defendant convicted of an offense
98 involving the manufacture of a methamphetamine-type substance, as
99 defined in section 21a-240 of the general statutes, as amended by this
100 act, shall order the defendant to reimburse the state for the costs
101 incurred for any clean-up associated with the manufacture of such
102 methamphetamine-type substance by the defendant.

103 (c) All moneys reimbursed to the state pursuant to subsection (b) of
104 this section shall be deposited in the methamphetamine laboratory
105 clean-up account established in subsection (a) of this section. The
106 Commissioner of Environmental Protection may expend moneys from
107 said account to reimburse any state or municipal agency for costs
108 associated with cleaning to proper environmental standards any site
109 where a methamphetamine-type substance was manufactured.

110 Sec. 5. (NEW) (*Effective October 1, 2008*) (a) Any person who sells or
111 offers for sale at retail any drug product or combination of drug
112 products containing ephedrine, pseudoephedrine or
113 phenylpropanolamine, or their salts, isomers or salts of isomers, shall:

114 (1) Store such drug product or combination of drug products in a
115 location that is inaccessible to consumers, and (2) require consumers to
116 request and purchase such drug product or combination of drug
117 products at the counter.

118 (b) A person who sells or offers for sale at retail any drug product or
119 combination of drug products pursuant to subsection (a) of this section
120 shall maintain a log book containing: (1) The signature of the
121 purchaser of the product, (2) the name of the purchaser of the product,
122 (3) the address of the purchaser of the product, (4) the date of the
123 purchase, (5) the time of the purchase, (6) the name of the seller, (7) the
124 name of the product purchased, and (8) the quantity of the product
125 purchased. Such seller shall maintain the log book for not less than two
126 years after the date the last entry is made in the log book. Such seller
127 shall obtain positive identification of the purchaser to verify the
128 information provided by the purchaser in the log book. The provisions
129 of this subsection shall not apply to the purchase of a single package
130 containing not more than sixty milligrams of pseudoephedrine.

131 (c) A person who sells or offers for sale at retail any drug product or
132 combination of drug products pursuant to subsection (a) of this section
133 shall maintain a written certification that all individuals who are
134 responsible for the delivery of such drug products to purchasers or
135 who deal directly with purchasers by obtaining payments for such
136 drug products have completed training provided by such seller to
137 ensure that such individuals understand the requirements of this
138 section.

139 (d) No individual shall purchase, receive or otherwise acquire more
140 than three and six-tenths grams per day or more than nine grams
141 during a thirty-day period of any drug product or combination of drug
142 products containing ephedrine, pseudoephedrine or
143 phenylpropanolamine, or their salts, isomers or salts of isomers.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2008</i>	21a-240
Sec. 2	<i>October 1, 2008</i>	21a-277
Sec. 3	<i>October 1, 2008</i>	21a-278(a)
Sec. 4	<i>July 1, 2008</i>	New section
Sec. 5	<i>October 1, 2008</i>	New section

PH *Joint Favorable C/R*

JUD

JUD *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Judicial Dept.	GF - Revenue Gain	Minimal	Minimal
Judicial Department (Probation); Correction, Dept.	GF - Cost	Potential	Potential
Department of Environmental Protection	Methamphetamine Lab Clean-up Account - Cost; Revenue Gain	Potential Minimal	Potential Minimal
Various State Agencies	GF - Cost Recovery	Potential Minimal	Potential Minimal

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 09 \$	FY 10 \$
Various Municipalities	Cost Recovery	Potential Minimal	Potential Minimal

Explanation

Criminal Penalties

The bill increases criminal penalties for trafficking in methamphetamine-type substances and the criminal penalty for a first-time offense for violating the drug paraphernalia law in connection with them. To the extent that these changes increase the likelihood that offenders would be prosecuted or receive harsher penalties, a potential revenue gain from criminal fines and potential cost for incarceration and/or probation supervision in the community exist.

It is anticipated that relatively few criminal fines would be imposed on an annual basis; consequently, any revenue gain from them is expected to be minimal. On average, it costs the state \$3,736 to supervise an offender on probation in the community as compared to

\$44,165 to incarcerate the offender.

Methamphetamine Lab Clean-Up

The bill establishes a methamphetamine laboratory clean-up account as a separate, nonlapsing General Fund account. Since the account may receive funds as required by law, there could be a minimal revenue gain to the Department of Environmental Protection (DEP), through this account.

There could also be a minimal cost to the methamphetamine laboratory clean-up account, through DEP, since the commissioner may expend funds from this account to reimburse any state agency or municipality that incurs costs associated with remediation of methamphetamine laboratories.

In 2007, there were three methamphetamine laboratories identified. The average cost of remediation is about \$5,000, but could vary significantly, depending on the degree of environmental impact.

The Out Years

The annualized ongoing fiscal impact identified above to clean up methamphetamine laboratories would continue into the future subject to the number of laboratories identified, the degree of environmental impact, and actual costs of remediation borne by various state agencies and municipalities. The annualized ongoing cost of incarceration would continue into the future subject to inflation; the annualized revenue gain from criminal fines would remain relatively stable since fine amounts are set by statute.

OLR Bill Analysis**HB 5037****AN ACT CONCERNING METHAMPHETAMINES.****SUMMARY:**

This bill:

1. establishes a statutory definition for methamphetamine-type substances;
2. increases the penalties for trafficking in them;
3. sets a sentence for a non-drug dependent person who sells amounts of them over certain thresholds;
4. increases the penalty for a first-time offense for violating the drug paraphernalia law in connection with them;
5. creates an account to pay for cleaning up methamphetamine labs funded by defendants convicted of an offense that involves its manufacture; and
6. like federal law, requires drugs used in methamphetamine manufacture, such as pseudoephedrine, to be kept behind a counter and requires sellers to keep a log book of purchasers.

EFFECTIVE DATE: October 1, 2008, except for the laboratory clean-up account, which takes effect July 1, 2008.

METHAMPHETAMINE-TYPE SUBSTANCES

The bill defines "methamphetamine-type substances" as methamphetamine and structural analogues, including methylenedioxymethamphetamine (MDMA) and other substituted phenylethylamine compounds; their salts, isomers, and salts of

isomers; and chemical compounds that are similar in chemical structure or physiological effect and show a similar potential for abuse or that are controlled substances, unless modified.

PENALTIES

Trafficking in Methamphetamine-Type Substances

The law subjects anyone who traffics in controlled substances that are hallucinogens, other than marijuana, or narcotics except as authorized by law, to the following maximum penalties: (1) for a first offense, 15 years imprisonment, a \$50,000 fine, or both; (2) for a second offense, 30 years imprisonment, a \$100,000 fine, or both; and (3) for subsequent offenses, 30 years, a \$250,000, or both.

The bill subjects someone who traffics in a controlled substance that is a methamphetamine-type substance to the same penalties. Under current law, someone who traffics in them is subject to the following maximum penalties: seven years imprisonment, a \$25,000 fine, or both; for a first offense; and 15 years imprisonment, a \$100,000 fine, or both, for subsequent offenses.

Sales by a Non-Drug Dependent Person

A non-drug dependent person trafficking in narcotic substances in amounts greater than certain thresholds must, under current law, serve a minimum of five years in prison and may be imprisoned for life. The thresholds are: one ounce of heroin or methadone, one-half ounce of cocaine or crack, and five milligrams of lysergic acid diethylamide.

The bill subjects to the same penalty a non-drug dependent person who traffics in at least 50 grams of a methamphetamine-type substance.

Drug Paraphernalia

The law prohibits knowingly possessing drug paraphernalia in a drug factory situation to make or prepare a controlled substance in violation of the law on dependency-producing drugs. The maximum

penalties are two years imprisonment, a \$1,000 fine, or both, for a first offense, and 10 years imprisonment, a \$10,000 fine, or both, for subsequent offenses (CGS § 21a-255).

The bill increases the maximum penalty for a first offense that involves paraphernalia used to prepare a methamphetamine-type substance to five years imprisonment, a \$5,000 fine, or both.

CLEAN-UP ACCOUNT

The bill establishes the “methamphetamine laboratory clean-up account” as a separate nonlapsing account in the General Fund. The court, when sentencing a defendant convicted of an offense involving the manufacture of a methamphetamine-type substance, must order the defendant to reimburse the state for the costs incurred for any clean-up associated with the manufacture.

The reimbursement must be deposited into the account. The environmental protection commissioner may authorize expenditures from it to reimburse a state or municipal agency for its clean-up costs. Account balances at the end of the fiscal year are carried forward.

RETAIL SALES OF RELATED DRUGS

The bill prohibits a person from buying, receiving, or otherwise acquiring more than 3.6 grams per day, or more than nine grams during a 30-day period, of a drug product, or combination of drug products, containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers.

It requires retail sellers of these products to (1) store them in a location inaccessible to consumers, (2) require consumers to ask for and purchase them at a counter, and (3) keep a log book of purchasers. The log book must contain: (a) the purchaser’s name, signature, and address; (b) purchase date and time; (c) the seller’s name; and (d) the name and quality of the product purchased. The book must be kept for at least two years after the date of the last entry. The bill requires sellers to obtain positive identification from the purchaser to verify the information entered in the log. These provisions do not apply to the

purchase of a single package containing 60 milligrams or less of pseudoephedrine.

The bill requires sellers to keep a written certification that all individuals who are responsible for delivering drug products to purchasers or who deal directly with purchasers by taking payment have completed training the seller provides to ensure that they understand the bill's requirements relating to selling these drug products.

BACKGROUND

Controlled Substances

Controlled substances are grouped in Schedules I through V, according to their decreasing tendency to promote abuse or dependency. Schedule I substances are the most strictly controlled because of their high potential for abuse. State and federal laws authorize prescribing drugs in Schedules II through V; most Schedule I drugs do not have any approved medical use.

Federal Law on Over-the-Counter (OTC) Sales of Drug Products Containing Pseudoephedrine

Federal law limits the amount an individual may purchase in a 30-day period, requires consumers to present photo identification, and requires retailers to keep a log book of purchasers and personal information about the consumers for at least two years (Title VI of PL 107-177).

COMMITTEE ACTION

Public Health Committee

Joint Favorable Change of Reference
Yea 28 Nay 0 (03/07/2008)

Judiciary Committee

Joint Favorable
Yea 43 Nay 0 (03/24/2008)