

2C:35-25

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2005 **CHAPTER:** 207

NJSA: 2C:35-25 (Restricts sales of ephedrine and pseudoephedrine and criminalizes possession of anhydrous ammonia under certain circumstances)

BILL NO: S2320/2501 (Substituted for A4035)

SPONSOR(S): Sarlo and others

DATE INTRODUCED: February 7, 2005

COMMITTEE: **ASSEMBLY:**
SENATE: Judiciary

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 30, 2005

SENATE: June 27, 2005

DATE OF APPROVAL: August 24, 2005

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (Assembly Committee Substitute (1R) for S2320/S2501 enacted)

S2320/2501

[SPONSOR'S STATEMENT \(S2320\)](#): (Begins on page 6 of original bill) [Yes](#)

[SPONSOR'S STATEMENT \(S2501\)](#): (Begins on page 3 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

[SENATE:](#) [Yes](#)

[FLOOR AMENDMENT STATEMENT:](#) [Yes](#)

LEGISLATIVE FISCAL ESTIMATE: No

A4035

[SPONSOR'S STATEMENT](#): (Begins on page 3 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** [Yes](#)

SENATE: No

[FLOOR AMENDMENT STATEMENT:](#) [Yes](#)

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING:

Yes

FOLLOWING WERE PRINTED:

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REPORTS:

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HEARINGS:

No

NEWSPAPER ARTICLES:

Yes

For clippings see legislative history of L.2005,c.205

IS 10/3/07

§§1,2,3,5 -
C.2C:35-25 to
2C:35-28
§6 - T&E
§7 - Note to §§1-6

P.L. 2005, CHAPTER 207, *approved August 24, 2005*
Senate Committee Substitute (*First Reprint*) for
Senate, Nos. 2320 and 2501

1 **AN ACT** concerning certain substances, amending N.J.S.2C:20-2
2 and supplementing Title 2C of the New Jersey Statutes and
3 Titles 45 and 51 of the Revised Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the
6 State of New Jersey:

7
8 1. (New section) a. Except as provided in subsection d. of this
9 section, no person shall sell, offer for sale or purchase in any single
10 ¹retail¹ transaction more than:

11 (1) three packages, or any number of packages that contain a
12 total of nine grams, of any drug containing a sole active ingredient
13 of ephedrine, pseudoephedrine, phenylpropanolamine, or any of
14 their salts, optical isomers or salts of optical isomers, or

15 (2) three packages of any combination drug containing, as
16 one of its active ingredients, ephedrine, pseudoephedrine,
17 phenylpropanolamine, or any of their salts, optical isomers or salts
18 of optical isomers, or any number of packages of such combination
19 drug that contain a total of nine grams of ephedrine,
20 pseudoephedrine, phenylpropanolamine, or any of their salts,
21 optical isomers or salts of optical isomers.

22 b. As used in this section, "drug" has the meaning as defined
23 in R.S.24:1-1.

24 c. A violation of this section is a disorderly persons offense.

25 d. This act shall not apply to a drug lawfully prescribed or
26 administered by a licensed physician, veterinarian or dentist.

27
28 2. (New section) Every pharmacy, store and other retail
29 mercantile establishment shall promptly communicate to local law
30 enforcement authorities the confirmed report of, or actual
31 knowledge of, a loss of 30 or more grams of any drug containing
32 a sole active ingredient of ephedrine, pseudoephedrine,
33 phenylpropanolamine, or any of their salts, optical isomers or salts
34 of optical isomers. As used in this section, "store or other retail
35 mercantile establishment" means a place where merchandise is
36 displayed, held, stored or sold or offered to the public for sale.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate floor amendments adopted June 20, 2005.

1 3. (New section) Proof that a person has in his possession
2 more than 30 grams or 10 packages of any drug containing a sole
3 active ingredient of ephedrine, pseudoephedrine,
4 phenylpropanolamine, or any of their salts, optical isomers or salts
5 of optical isomers; or more than 30 grams or 10 packages of any
6 combination drug containing, as one of its active ingredients,
7 ephedrine, pseudoephedrine, phenylpropanolamine, or any of their
8 salts, optical isomers or salts of optical isomers, shall give rise to
9 a permissive inference by the trier of fact that the person acted
10 with a purpose to create methamphetamine.

11

12 4. N.J.S. 2C:20-2 is amended to read as follows:

13 2C:20-2. Consolidation of Theft Offenses; Grading; Provisions
14 Applicable to Theft Generally.

15 a. Consolidation of Theft and Computer Criminal Activity
16 Offenses. Conduct denominated theft or computer criminal activity
17 in this chapter constitutes a single offense, but each episode or
18 transaction may be the subject of a separate prosecution and
19 conviction. A charge of theft or computer criminal activity may be
20 supported by evidence that it was committed in any manner that
21 would be theft or computer criminal activity under this chapter,
22 notwithstanding the specification of a different manner in the
23 indictment or accusation, subject only to the power of the court to
24 ensure fair trial by granting a bill of particulars, discovery, a
25 continuance, or other appropriate relief where the conduct of the
26 defense would be prejudiced by lack of fair notice or by surprise.

27 b. Grading of theft offenses.

28 (1) Theft constitutes a crime of the second degree if:

29 (a) The amount involved is \$75,000.00 or more;

30 (b) The property is taken by extortion;

31 (c) The property stolen is a controlled dangerous substance or
32 controlled substance analog as defined in N.J.S.2C:35-2 and the
33 quantity is in excess of one kilogram;

34 (d) The property stolen is a person's benefits under federal or
35 State law, or from any other source, which the Department of
36 Human Services or an agency acting on its behalf has budgeted for
37 the person's health care and the amount involved is \$75,000 or
38 more; or

39 (e) The property stolen is human remains or any part thereof.

40 (2) Theft constitutes a crime of the third degree if:

41 (a) The amount involved exceeds \$500.00 but is less than
42 \$75,000.00;

43 (b) The property stolen is a firearm, motor vehicle, vessel,
44 boat, horse, domestic companion animal or airplane;

45 (c) The property stolen is a controlled dangerous substance or
46 controlled substance analog as defined in N.J.S.2C:35-2 and the
47 amount involved is less than \$75,000.00 or is undetermined and

- 1 the quantity is one kilogram or less;
- 2 (d) It is from the person of the victim;
- 3 (e) It is in breach of an obligation by a person in his capacity as
4 a fiduciary;
- 5 (f) It is by threat not amounting to extortion;
- 6 (g) It is of a public record, writing or instrument kept, filed or
7 deposited according to law with or in the keeping of any public
8 office or public servant;
- 9 (h) The property stolen is a person's benefits under federal or
10 State law, or from any other source, which the Department of
11 Human Services or an agency acting on its behalf has budgeted for
12 the person's health care and the amount involved is less than
13 \$75,000;
- 14 (i) The property stolen is any real or personal property related
15 to, necessary for, or derived from research, regardless of value,
16 including, but not limited to, any sample, specimens and
17 components thereof, research subject, including any warm-blooded
18 or cold-blooded animals being used for research or intended for
19 use in research, supplies, records, data or test results, prototypes
20 or equipment, as well as any proprietary information or other type
21 of information related to research;
- 22 (j) The property stolen is a New Jersey Prescription Blank as
23 referred to in R.S.45:14-14; [or]
- 24 (k) The property stolen consists of an access device or a
25 defaced access device ; or
- 26 (l) The property stolen consists of anhydrous ammonia and the
27 actor intends it to be used to manufacture methamphetamine.
- 28 (3) Theft constitutes a crime of the fourth degree if the amount
29 involved is at least \$200.00 but does not exceed \$500.00. If the
30 amount involved was less than \$200.00 the offense constitutes a
31 disorderly persons offense.
- 32 (4) The amount involved in a theft or computer criminal
33 activity shall be determined by the trier of fact. The amount shall
34 include, but shall not be limited to, the amount of any State tax
35 avoided, evaded or otherwise unpaid, improperly retained or
36 disposed of. Amounts involved in thefts or computer criminal
37 activities committed pursuant to one scheme or course of conduct,
38 whether from the same person or several persons, may be
39 aggregated in determining the grade of the offense.
- 40 c. Claim of right. It is an affirmative defense to prosecution
41 for theft that the actor:
- 42 (1) Was unaware that the property or service was that of
43 another;
- 44 (2) Acted under an honest claim of right to the property or
45 service involved or that he had a right to acquire or dispose of it
46 as he did; or
- 47 (3) Took property exposed for sale, intending to purchase and

1 pay for it promptly, or reasonably believing that the owner, if
2 present, would have consented.

3 d. Theft from spouse. It is no defense that theft or computer
4 criminal activity was from or committed against the actor's spouse,
5 except that misappropriation of household and personal effects, or
6 other property normally accessible to both spouses, is theft or
7 computer criminal activity only if it occurs after the parties have
8 ceased living together.

9 (cf: P.L.2003, c.39, s.7)

10

11 5. (New section) a. Except as authorized by P.L.1970, c. 226
12 (C.24:21-1 et seq.), a person is guilty of the crime of unlawful
13 possession of a precursor if the person knowingly or purposely
14 possesses anhydrous ammonia with intent to unlawfully
15 manufacture methamphetamine or any of its analogs.

16 b. Except as authorized by P.L.1970, c. 226 (C.24:21-1 et
17 seq.), a person is guilty of the crime of unlawful possession of a
18 precursor if the person knowingly or purposely possesses
19 phenylalanine with intent to unlawfully manufacture
20 methamphetamine or amphetamine or any of their analogs.

21 c. Except as authorized by P.L.1970, c. 226 (C. 24:21-1 et
22 seq.), a person is guilty of the crime of unlawful possession of a
23 precursor if the person knowingly or purposely possesses, with
24 intent to manufacture a controlled dangerous substance or
25 controlled substance analog, any of the following:

26 (1) carbamide (urea) and propanedioc and malonic acid or its
27 derivatives;

28 (2)ergot or an ergot derivative and diethylamine or dimethyl-
29 formamide or diethylamide;

30 (3)phenylacetone (1-phenyl-2 propanone);

31 (4)pentazocine and methyl iodid;

32 (5)phenylacetonitrile and dichlorodiethyl methylamine or
33 dichlorodiethyl benzylamine;

34 (6)diphenylacetonitrile and dimethylaminoisopropyl chloride;

35 (7) piperidine and cyclohexanone and bromobenzene and
36 lithium or magnesium; or

37 (8) 2, 5-dimethoxy benzaldehyde and nitroethane and a
38 reducing agent.

39 d. (1) Except as authorized by P.L.1970, c. 226 (C.24:21-1 et
40 seq.), a person is guilty of the crime of unlawful possession of a
41 precursor if the person, with intent to unlawfully manufacture
42 methamphetamine, knowingly or purposely possesses ephedrine
43 (including its salts, isomers or salts of isomers),
44 norpseudoephedrine (including its salts, isomers or salts of
45 isomers), n-methylephedrine (including its salts, isomers or salts of
46 isomers), n-methylpseudoephedrine (including its salts, isomers or
47 salts of isomers), or pseudoephedrine (including its salts, isomers

1 or salts of isomers).

2 (2) Proof that a person in possession of any of the substances
3 enumerated in paragraph (1) of this subsection at the same time
4 also possesses any of the following substances shall give rise to a
5 permissive inference by the trier of fact that the person acted with
6 intent to unlawfully manufacture methamphetamine:

7 (a) amorphous (red) phosphorus or white phosphorus;

8 (b) hydroiodic acid;

9 (c) anhydrous ammonia;

10 (d) sodium; or

11 (e) lithium.

12 Unlawful possession of a precursor in violation of this section
13 is a crime of the second degree.

14

15 6. (New section) a. The New Jersey Department of
16 Agriculture, which includes the Secretary of Agriculture, the State
17 Board of Agriculture and the State Chemist, shall conduct a study
18 on the feasibility of using an additive to anhydrous ammonia sold
19 as agricultural fertilizer to inhibit or prevent its illicit use in the
20 manufacturing of the drug methamphetamine. The study shall
21 consider: the effectiveness of potential additives in inhibiting or
22 preventing the use of anhydrous ammonia to manufacture the drug
23 methamphetamine; expected final cost of any potential additives;
24 the human health hazards, hazards to fish, shellfish and wildlife,
25 and environmental hazards of any potential additives as compared
26 to the same hazards posed by anhydrous ammonia; and the extent
27 which the additives would be expected to reduce the effectiveness
28 or usefulness of anhydrous ammonia as an agricultural fertilizer.

29 b. The department shall prepare a report on the
30 recommendations to require or encourage the use of an additive to
31 anhydrous ammonia to inhibit or prevent its use in the manufacture
32 of methamphetamine and submit a copy of such report to the
33 Legislature and the Governor no later than one year after the
34 effective date of P.L. ,c. (C.) (pending before the Legislature
35 as this bill).

36

37 7. This act shall take effect on the 90th day following
38 enactment.

39

40

41

42

43 Restricts sales of ephedrine and pseudoephedrine and criminalizes
44 possession of anhydrous ammonia under certain circumstances.

SENATE, No. 2320

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED FEBRUARY 7, 2005

Sponsored by:

Senator JOSEPH M. KYRILLOS, JR.

District 13 (Middlesex and Monmouth)

SYNOPSIS

Prohibits the possession of anhydrous ammonia for the purposes of manufacturing methamphetamine.

CURRENT VERSION OF TEXT

As introduced.



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2

1 **AN ACT** concerning anhydrous ammonia, amending N.J.S.2C:20-2
2 and N.J.S.2C:35-4 and supplementing chapter 35 of Title 2C of the
3 New Jersey Statutes.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. N.J.S. 2C:20-2 is amended to read as follows:

9 2C:20-2. Consolidation of Theft Offenses; Grading; Provisions
10 Applicable to Theft Generally.

11 a. Consolidation of Theft and Computer Criminal Activity
12 Offenses. Conduct denominated theft or computer criminal activity in
13 this chapter constitutes a single offense, but each episode or
14 transaction may be the subject of a separate prosecution and
15 conviction. A charge of theft or computer criminal activity may be
16 supported by evidence that it was committed in any manner that would
17 be theft or computer criminal activity under this chapter,
18 notwithstanding the specification of a different manner in the
19 indictment or accusation, subject only to the power of the court to
20 ensure fair trial by granting a bill of particulars, discovery, a
21 continuance, or other appropriate relief where the conduct of the
22 defense would be prejudiced by lack of fair notice or by surprise.

23 b. Grading of theft offenses.

24 (1) Theft constitutes a crime of the second degree if:

25 (a) The amount involved is \$75,000.00 or more;

26 (b) The property is taken by extortion;

27 (c) The property stolen is a controlled dangerous substance or
28 controlled substance analog as defined in N.J.S.2C:35-2 and the
29 quantity is in excess of one kilogram;

30 (d) The property stolen is a person's benefits under federal or State
31 law, or from any other source, which the Department of Human
32 Services or an agency acting on its behalf has budgeted for the
33 person's health care and the amount involved is \$75,000 or more; **[or]**

34 (e) The property stolen is human remains or any part thereof; or
35 (f) The property stolen consists of anhydrous ammonia and the
36 actor intends it to be used to manufacture methamphetamine.

37 (2) Theft constitutes a crime of the third degree if:

38 (a) The amount involved exceeds \$500.00 but is less than
39 \$75,000.00;

40 (b) The property stolen is a firearm, motor vehicle, vessel, boat,
41 horse, domestic companion animal or airplane;

42 (c) The property stolen is a controlled dangerous substance or
43 controlled substance analog as defined in N.J.S.2C:35-2 and the

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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- 1 amount involved is less than \$75,000.00 or is undetermined and the
2 quantity is one kilogram or less;
- 3 (d) It is from the person of the victim;
- 4 (e) It is in breach of an obligation by a person in his capacity as a
5 fiduciary;
- 6 (f) It is by threat not amounting to extortion;
- 7 (g) It is of a public record, writing or instrument kept, filed or
8 deposited according to law with or in the keeping of any public office
9 or public servant;
- 10 (h) The property stolen is a person's benefits under federal or State
11 law, or from any other source, which the Department of Human
12 Services or an agency acting on its behalf has budgeted for the
13 person's health care and the amount involved is less than \$75,000;
- 14 (i) The property stolen is any real or personal property related to,
15 necessary for, or derived from research, regardless of value, including,
16 but not limited to, any sample, specimens and components thereof,
17 research subject, including any warm-blooded or cold-blooded animals
18 being used for research or intended for use in research, supplies,
19 records, data or test results, prototypes or equipment, as well as any
20 proprietary information or other type of information related to
21 research;
- 22 (j) The property stolen is a New Jersey Prescription Blank as
23 referred to in R.S.45:14-14; or
- 24 (k) The property stolen consists of an access device or a defaced
25 access device.
- 26 (3) Theft constitutes a crime of the fourth degree if the amount
27 involved is at least \$200.00 but does not exceed \$500.00. If the
28 amount involved was less than \$200.00 the offense constitutes a
29 disorderly persons offense.
- 30 (4) The amount involved in a theft or computer criminal activity
31 shall be determined by the trier of fact. The amount shall include, but
32 shall not be limited to, the amount of any State tax avoided, evaded or
33 otherwise unpaid, improperly retained or disposed of. Amounts
34 involved in thefts or computer criminal activities committed pursuant
35 to one scheme or course of conduct, whether from the same person or
36 several persons, may be aggregated in determining the grade of the
37 offense.
- 38 c. Claim of right. It is an affirmative defense to prosecution for
39 theft that the actor:
- 40 (1) Was unaware that the property or service was that of another;
- 41 (2) Acted under an honest claim of right to the property or service
42 involved or that he had a right to acquire or dispose of it as he did; or
- 43 (3) Took property exposed for sale, intending to purchase and pay
44 for it promptly, or reasonably believing that the owner, if present,
45 would have consented.
- 46 d. Theft from spouse. It is no defense that theft or computer

1 criminal activity was from or committed against the actor's spouse,
2 except that misappropriation of household and personal effects, or
3 other property normally accessible to both spouses, is theft or
4 computer criminal activity only if it occurs after the parties have
5 ceased living together.

6 (cf:P.L.2003, c.39, s.7)

7

8 2. (New section) a. Except as authorized by P.L.1970, c. 226
9 (C.24:21-1 et seq.), a person is guilty of the crime of unlawful
10 possession of a precursor if he knowingly or purposely possesses
11 anhydrous ammonia with intent to unlawfully manufacture
12 methamphetamine.

13 b. Except as authorized by P.L.1970, c. 226 (C.24:21-1 et seq.), a
14 person is guilty of the crime of unlawful possession of a precursor if
15 he knowingly or purposely possesses phenylalanine with the intent to
16 unlawfully manufacture methamphetamine or amphetamine.

17 c. Except as authorized by P.L.1970, c. 226 (C. 24:21-1 et seq.),
18 a person is guilty of the crime of unlawful possession of a precursor if
19 he, with intent to manufacture a controlled dangerous substance,
20 knowingly or purposely possess any of the following:

21 (1) carbamide (urea) and propanedioc and malonic acid or its
22 derivatives;

23 (2)ergot or an ergot derivative and diethylamine or dimethyl-
24 formamide or diethylamide;

25 (3)phenylacetone (1-phenyl-2 propanone);

26 (4)pentazocine and methyliodid;

27 (5)phenylacetonitrile and dichlorodiethyl methylamine or
28 dichlorodiethyl benzylamine;

29 (6) diephenylacetonitrile and dimethylaminoisopropyl chloride;

30 (7) piperidine and cyclohexanone and bromobenzene and lithium or
31 magnesium; or

32 (8) 2, 5-dimethoxy benzaldehyde and nitroethane and a reducing
33 agent.

34 d. Except as authorized by P.L.1970, c. 226 (C.24:21-1 et seq.), a
35 person is guilty of the crime of unlawful possession of a precursor if
36 he, with intent to unlawfully manufacture methamphetamine,
37 knowingly or purposely possess ephedrine (including its salts, isomers
38 or salts of isomers), norpseudoephedrine (including its salts, isomers
39 or salts of isomers), n-methylephedrine (including its salts, isomers or
40 salts of isomers), n-methylpseudoephedrine (including its salts, isomers
41 or salts of isomers), or pseudoephedrine (including its salts, isomers
42 or salts of isomers) while at the same time he also possesses any of the
43 following:

44 (1) amorphous (red) phosphorus or white phosphorus;

45 (2) hydroiodic acid;

46 (3) anhydrous ammonia;

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1 (4) sodium;or

2 (5) lithium.

3 Unlawful possession of a precursor in violation of this section is a
4 crime of the second degree.

5

6 3. N.J.S.2C:35-4 is amended to read as follows:

7 2C:35-4. Except as authorized by P.L.1970, c.226 (C.24:21-1 et
8 seq.), any person who knowingly maintains or operates any premises,
9 place or facility used for the manufacture of methamphetamine,
10 lysergic acid diethylamide, phencyclidine, gamma hydroxybutyrate,
11 flunitrazepam, marijuana in an amount greater than five pounds or ten
12 plants or any substance listed in Schedule I or II, or the analog of any
13 such substance, or any person who knowingly possesses anhydrous
14 ammonia with the intent to manufacture methamphetamine, or any
15 person who knowingly aids, promotes, finances or otherwise
16 participates in the maintenance or operations of such premises, place
17 or facility, is guilty of a crime of the first degree and shall, except as
18 provided in N.J.S.2C:35-12, be sentenced to a term of imprisonment
19 which shall include the imposition of a minimum term which shall be
20 fixed at, or between, one-third and one-half of the sentence imposed,
21 during which the defendant shall be ineligible for parole.
22 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, the
23 court may also impose a fine not to exceed \$750,000.00 or five times
24 the street value of all controlled dangerous substances, controlled
25 substance analogs, gamma hydroxybutyrate or flunitrazepam at any
26 time manufactured or stored at such premises, place or facility,
27 whichever is greater.

28 (cf: P.L.1999, c.133, s.2)

29

30 4. (New section) Any person who violates the provisions of
31 N.J.S.35-4 by operating or maintaining any premise, place or facility
32 used for the manufacturing of methamphetamine while in, on or within
33 500 feet of a residence or dwelling is guilty of a crime of the second
34 degree. As defined in this section, "dwelling" means any building or
35 structure, though movable or temporary, or a portion thereof, which
36 is a place of lodging.

37

38 5. (New section) a. The New Jersey Department of Agriculture,
39 which includes the Secretary of Agriculture, the State Board of
40 Agriculture and the State Chemist, shall conduct a study on the
41 feasibility of using an additive to anhydrous ammonia sold as
42 agricultural fertilizer to inhibit or prevent its illicit use in the
43 manufacturing of the drug methamphetamine. Such study shall
44 consider the effectiveness of potential additives in inhibiting or
45 preventing the use of anhydrous ammonia to manufacture the drug
46 methamphetamine; expected final cost of any potential additives; the

1 human health hazards, hazards to fish, shellfish and wildlife, and
2 environmental hazards of any potential additives as compared to the
3 same hazards posed by anhydrous ammonia; and the extent which the
4 additives would be expected to reduce the effectiveness or usefulness
5 of anhydrous ammonia as an agricultural fertilizer.

6 b. The department shall prepare a report on the recommendations
7 to require or encourage the use of an additive to anhydrous ammonia
8 to inhibit or prevent its use in the manufacture of methamphetamine
9 and submit a copy of such report to the Legislature and the Governor
10 no later than one year after the effective date of P.L. ,c. (C.) (now
11 pending before the Legislature as this bill).

12

13 6. This act shall take effect immediately.

14

15

16

STATEMENT

17

18 This bill would criminalize the possession of anhydrous ammonia
19 for the purposes of using this substance to manufacture
20 methamphetamine.

21 Anhydrous ammonia is a potentially dangerous chemical which is
22 widely used as a source of nitrogen fertilizer in agriculture production.
23 Anhydrous ammonia when used in agriculture production is often
24 stored in specially designed tanks which can withstand different
25 changes in temperature. Anhydrous ammonia is one of the key
26 ingredients used in the illegal manufacturing of methamphetamine,
27 more commonly known as "meth."

28 Anhydrous ammonia is caustic and can cause severe chemical burns.
29 The presence of this highly dangerous substance in illegal "meth" labs
30 throughout the State poses a danger to our law enforcement
31 personnel. It is the sponsor's intent that prohibiting the unlawful
32 possession and use of this substance to create methamphetamine is an
33 important step in the fight against the spread of these meth labs
34 throughout the State. The sponsor is also attempting to address this
35 growing problem by requiring the Department of Agriculture, which
36 regulates such substances as anhydrous ammonia, to study the
37 feasibility of using an additive to anhydrous ammonia sold as
38 agricultural fertilizer to inhibit or prevent its illicit use in the
39 manufacturing of methamphetamine.

40 *Section 1* of the bill amends the theft provision, N.J.S.2C:20-2, to
41 make it a crime of the second degree for any person to possess stolen
42 anhydrous ammonia and to use the stolen substance to manufacture
43 methamphetamine. A crime of the second degree is punishable by a
44 term of imprisonment of five to 10 years, a fine of up to \$150,000 or
45 both.

46 *Section 2* of the bill would make it a crime of the second degree for

1 a person to unlawfully possess certain precursors under certain
2 circumstances. Specifically, a person would be guilty of the crime of
3 unlawful possession of a precursor if he knowingly or purposely
4 possesses anhydrous ammonia with intent to unlawfully manufacture
5 methamphetamine. It would also be unlawful to knowingly or
6 purposely possesses phenylalanine with the intent to unlawfully
7 manufacture methamphetamine or amphetamine. In addition, a person
8 would be guilty of the crime of unlawful possession of a precursor if
9 he, with intent to manufacture a controlled dangerous substance,
10 knowingly or purposely possesses any of the following: (1) carbamide
11 (urea) and propanedioc and malonic acid or its derivatives; (2) ergot
12 or an ergot derivative and diethylamine or dimethyl-formamide or
13 diethylamide; (3) phenylacetone (1-phenyl-2 propanone); (4)
14 pentazocine and methylodid; (5) phenylacetonitrile and dichlorodiethyl
15 methylamine or dichlorodiethyl benzylamine; (6) diephenylacetonitrile
16 and dimethylaminoisopropyl chloride; (7) piperidine and
17 cyclohexanone and bromobenzene and lithium or magnesium; (8) 2, 5-
18 dimethoxy benzaldehyde and nitroethane and a reducing agent.

19 And finally, a person would be guilty of the crime of unlawful
20 possession of a precursor if he, with intent to unlawfully manufacture
21 methamphetamine, knowingly or purposely possess ephedrine
22 (including its salts, isomers or salts of isomers), norpseudoephedrine
23 (including its salts, isomers or salts of isomers), n-methylephedrine
24 (including its salts, isomers or salts of isomers), n-
25 methylpseudoephedrine (including its salts, isomers or salts of
26 isomers), or pseudoephedrine (including its salts, isomers or salts of
27 isomers) while at the same time he also possesses any of the following:
28 (1) amorphous (red) phosphorus or white phosphorus; (2)
29 hydroiodic acid; (3) anhydrous ammonia; (4) sodium; and (5) lithium.

30 *Section 3* of the bill would expand N.J.S.2C:35-4 concerning
31 maintaining and operating a drug facility, to also include the
32 possession of anhydrous ammonia with the intent to manufacture
33 methamphetamine.

34 *Section 4* of the bill makes it a crime of the second degree for any
35 person who operates or maintains a facility used for the manufacturing
36 of methamphetamine while in, on or within 500 feet of a residence or
37 dwelling. "Dwelling" is defined as any building or structure, though
38 movable or temporary, or a portion thereof, which is a place of
39 lodging. This section is modeled after the current school zone section
40 of the drug laws, N.J.S.2C:35-7.1 which prohibits distribution or
41 possessing of a controlled dangerous substance within 500 feet of a
42 school.

43 *Section 5* of the bill requires the New Jersey Department of
44 Agriculture to conduct a study on the feasibility of using an additive
45 to anhydrous ammonia sold as agricultural fertilizer to inhibit or
46 prevent its illicit use in the manufacturing of the drug

S2320 KYRILLOS

1 methamphetamine. The study would consider the effectiveness of
2 potential additives in inhibiting or preventing the use of anhydrous
3 ammonia to manufacture the drug methamphetamine; expected final
4 cost of any potential additives; the human health hazards, hazards to
5 fish, shellfish and wildlife, and environmental hazards of any potential
6 additives as compared to the same hazards posed by anhydrous
7 ammonia; and the extent which the additives would be expected to
8 reduce the effectiveness or usefulness of anhydrous ammonia as an
9 agricultural fertilizer. The department would be required to prepare a
10 report on the recommendations to require or encourage the use of an
11 additive to anhydrous ammonia to inhibit or prevent its use in the
12 manufacture of methamphetamine. A copy of the report is to be given
13 to the Legislature and the Governor no later than one year after the
14 effective date of the bill.

SENATE, No. 2501

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED MAY 12, 2005

Sponsored by:

Senator PAUL SARLO

District 36 (Bergen, Essex and Passaic)

Senator JOSEPH M. KYRILLOS, JR.

District 13 (Middlesex and Monmouth)

SYNOPSIS

Restricts sales of ephedrine and pseudoephedrine and creates permissive inference for possession of certain amounts.

CURRENT VERSION OF TEXT

As introduced.



S2501 SARLO, KYRILLOS

2

1 AN ACT concerning certain substances, amending P.L.2003, c.280 and
2 supplementing Title 51 of the Revised Statutes and Title 2C of the
3 New Jersey Statutes.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. (New section) Except as provided in subsection e. of this
9 section, no person shall sell, offer for sale or purchase in any single
10 transaction more than:

11 a. Three packages, or any number of packages that contain a total
12 of nine grams, of any drug containing a sole active ingredient of
13 ephedrine, pseudoephedrine, phenylpropanolamine, or any of their
14 salts, optical isomers or salts of optical isomers, or

15 b. Three packages of any combination drug containing, as one of
16 its active ingredients, ephedrine, pseudoephedrine,
17 phenylpropanolamine, or any of their salts, optical isomers or salts of
18 optical isomers, or any number of packages of such combination drug
19 that contain a total of nine grams of ephedrine, pseudoephedrine,
20 phenylpropanolamine, or any of their salts, optical isomers or salts of
21 optical isomers.

22 c. As used in this section, "drug" has the meaning as defined in
23 R.S.24:1-1.

24 d. A violation of this section is a disorderly persons offense.

25 e. This act shall not apply to a prescription legend drug lawfully
26 prescribed or administered by a licensed physician, veterinarian or
27 dentist.

28

29 2. (New section) Every pharmacy, store and other retail mercantile
30 establishment shall promptly report to local law enforcement
31 authorities the occurrence of any significant theft or loss of any drug
32 containing ephedrine, pseudoephedrine, phenylpropanolamine, or any
33 of their salts, optical isomers or salts of optical isomers. As used in
34 this section, "store or other retail mercantile establishment" means a
35 place where merchandise is displayed, held, stored or sold or offered
36 to the public for sale.

37

38 3. Section 35 of P.L.2003, c.280 (C.45:14-74) is amended to read
39 as follows:

40 35. a. All licensed pharmacy practice sites shall report to the board
41 the occurrences of any of the following:

42 (1) Closing of the pharmacy practice site;

43 (2) Change of ownership, location, interior site design, permit

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 classification or pharmacist-in-charge of the pharmacy practice site;

2 (3) Any significant theft or loss of legend drugs or devices or of any
3 drug containing ephedrine, pseudoephedrine, phenylpropanolamine, or
4 any of their salts, optical isomers or salts of optical isomers;

5 (4) Disasters, accidents, any theft, destruction or loss of records
6 required to be maintained by State or federal law;

7 (5) Any pharmacy malpractice liability insurance claim settlement,
8 judgment or arbitration award in excess of \$10,000 to which an owner,
9 an employee of, or the pharmacy practice site itself is a party; and

10 (6) Any and all other matters and occurrences as the board may
11 require by rule or regulation.

12 b. The manner, time and content of the notification shall be
13 prescribed by rule or regulation by the board.

14 (cf: P.L.2003,c.280,s.35)

15

16 4. (New section) Proof that a person has in his possession more
17 than 30 grams or 10 packages of any drug containing a sole active
18 ingredient of ephedrine, pseudoephedrine, phenylpropanolamine, or
19 any of their salts, optical isomers or salts of optical isomers; or more
20 than 30 grams or 10 packages of any combination drug containing, as
21 one of its active ingredients, ephedrine, pseudoephedrine,
22 phenylpropanolamine, or any of their salts, optical isomers or salts of
23 optical isomers, shall give rise to a permissive inference by the trier of
24 fact that the person acted with a purpose to create methamphetamine.

25

26 5. The Department of Health and Senior Services in conjunction
27 with the Division of Consumer Affairs in the Department of Law and
28 Public Safety shall adopt, pursuant to the "Administrative Procedure
29 Act," P.L.1968, c.410 (C.52:14B-1 et seq.) rules and regulations
30 necessary to implement this act.

31

32 6. This act shall take effect on the 90th day following enactment
33 except for section 5 which shall take effect immediately.

34

35

36

STATEMENT

37

38 Methamphetamine, in the form of "crystal meth," can be produced
39 relatively easily in a drug user's home using ephedrine and
40 pseudoephedrine as ingredients. Because ephedrine and
41 pseudoephedrine have many legitimate medical uses and are commonly
42 sold over-the-counter as decongestants and cold remedies, this bill is
43 intended to impose reasonable restrictions on the sales of these
44 substances without imposing arduous constraints on such sales.

45 Under the bill, no person could offer for sale or purchase in any
46 single transaction more than three packages, or any number of

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1 packages that contain a total of nine grams, of any drug containing a
2 sole active ingredient of ephedrine, pseudoephedrine,
3 phenylpropanolamine, or any of their salts, optical isomers or salts of
4 optical isomers, or three packages of any combination drug containing,
5 as one of its active ingredients, ephedrine, pseudoephedrine,
6 phenylpropanolamine, or any of their salts, optical isomers or salts of
7 optical isomers, or any number of packages of such combination drug
8 that contain a total of nine grams of ephedrine, pseudoephedrine,
9 phenylpropanolamine, or any of their salts, optical isomers or salts of
10 optical isomers.

11 A person who buys or sells these substances in violation of the bill
12 would be guilty of a disorderly persons offense. A disorderly persons
13 offense is punishable by a term of imprisonment of up to six months or
14 a fine of up to \$1,000 or both.

15 The bill would not apply to a prescription lawfully prescribed or
16 administered by a licensed physician, veterinarian or dentist.

17 The bill also provides that every pharmacy, store and other retail
18 mercantile establishment would be required to promptly report to local
19 law enforcement authorities the occurrence of any significant theft or
20 loss of any drug containing any of these substances. The bill also
21 amends N.J.S.A.45:14-74, which currently requires pharmacies to
22 report to the New Jersey State Board of Pharmacy any significant theft
23 or loss of legend drugs or devices, to provide that pharmacies must
24 also report any significant theft or loss of any drug containing
25 ephedrine, pseudoephedrine, phenylpropanolamine, or any of their
26 salts, optical isomers or salts of optical isomers.

27 In addition, the bill establishes a permissive inference, to be used in
28 prosecutions, that a person acted with a purpose to create
29 methamphetamine if there is proof that he has in his possession more
30 than 30 grams or 10 packages of any drug containing the listed
31 substances.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, Nos. 2320 and 2501**

STATE OF NEW JERSEY

DATED: JUNE 9, 2005

The Senate Judiciary Committee reports favorably a Senate Committee Substitute for Senate Bill Nos. 2320 and 2501.

Methamphetamine, in the form of "crystal meth," can be produced relatively easily in a drug user's home using ephedrine and pseudoephedrine as ingredients. Because ephedrine and pseudoephedrine have many legitimate medical uses and are commonly sold over-the-counter as decongestants and cold remedies, this bill is intended to impose reasonable restrictions on the sales of these substances without imposing arduous constraints on such sales.

Another key ingredient in the illegal manufacture of methamphetamine is anhydrous ammonia, a caustic and potentially dangerous chemical which is used as a source of nitrogen fertilizer in agriculture production. This bill would criminalize the possession of anhydrous ammonia for the purpose of using it to manufacture methamphetamine.

Section 1 of the bill provides that no person could offer for sale or purchase in any single transaction more than three packages, or any number of packages that contain a total of nine grams, of any drug containing a sole active ingredient of ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers or salts of optical isomers, or three packages of any combination drug containing, as one of its active ingredients, ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers or salts of optical isomers, or any number of packages of such combination drug that contain a total of nine grams of ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers or salts of optical isomers.

A person who buys or sells these substances in violation of the bill would be guilty of a disorderly persons offense. A disorderly persons offense is punishable by a term of imprisonment of up to six months or a fine of up to \$1,000 or both.

The bill would not apply to a drug lawfully prescribed or administered by a licensed physician, veterinarian or dentist.

Section 2 of the bill provides that every pharmacy, store and other retail mercantile establishment would be required to promptly

communicate to local law enforcement authorities the confirmed report of, or actual knowledge of a loss of, 30 or more grams of any drug containing a sole active ingredient of any of these substances.

Section 3 of the bill establishes a permissive inference, to be used in prosecutions, that a person acted with a purpose to create methamphetamine if there is proof that he has in his possession more than 30 grams or 10 packages of any drug containing the listed substances.

Section 4 of the bill amends the theft provision, N.J.S.2C:20-2, to make it a crime of the third degree if the property stolen consists of anhydrous ammonia. A crime of the third degree is punishable by a term of imprisonment of three to five years, a fine of up to \$15,000 or both.

Section 5 of the bill provides that a person is guilty of the second degree crime of unlawful possession of a precursor if he knowingly or purposely possesses anhydrous ammonia with intent to unlawfully manufacture methamphetamine or any of its analogs. A crime of the second degree is punishable by a term of imprisonment of five to 10 years or a fine of up to \$150,000 or both.

Section 6 of the bill requires the New Jersey Department of Agriculture to conduct a study on the feasibility of using an additive to anhydrous ammonia sold as agricultural fertilizer to inhibit or prevent its illicit use in the manufacturing of the drug methamphetamine. The study would consider: the effectiveness of potential additives in inhibiting or preventing the use of anhydrous ammonia to manufacture the drug methamphetamine; expected final cost of any potential additives; the human health hazards, hazards to fish, shellfish and wildlife, and environmental hazards of any potential additives as compared to the same hazards posed by anhydrous ammonia; and the extent which the additives would be expected to reduce the effectiveness or usefulness of anhydrous ammonia as an agricultural fertilizer. The department would be required to prepare a report on the recommendations to require or encourage the use of an additive to anhydrous ammonia to inhibit or prevent its use in the manufacture of methamphetamine.

STATEMENT TO
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 2320 and 2501

with Senate Floor Amendments
(Proposed By Senator SARLO)

ADOPTED: JUNE 20, 2005

These floor amendments would clarify that the restrictions on sales of drugs containing ephedrine, pseudoephedrine, or phenylpropanolamine are intended to apply only to retail sales of these drugs and are not applicable to wholesalers.

ASSEMBLY, No. 4035

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED MAY 5, 2005

Sponsored by:

Assemblywoman LINDA STENDER

District 22 (Middlesex, Somerset and Union)

Assemblyman NEIL M. COHEN

District 20 (Union)

Co-Sponsored by:

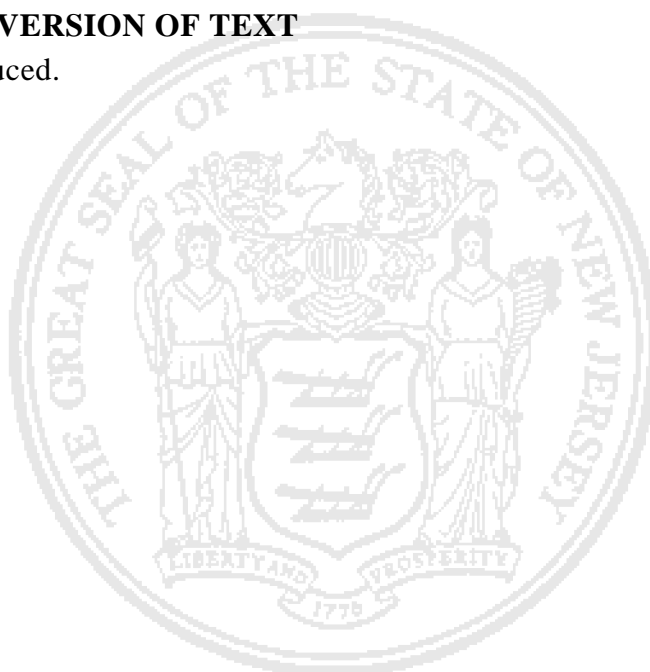
Assemblyman Manzo

SYNOPSIS

Restricts sale of over-the-counter products containing chemicals used to manufacture methamphetamine.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/10/2005)

1 AN ACT restricting the sale of certain over-the-counter products
2 containing chemicals used to manufacture methamphetamine and
3 supplementing Title 24 of the Revised Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. As used in this act:

9 "Retail distributor" means a store or other retail mercantile
10 establishment where merchandise is sold or offered to the public for
11 sale, and includes, but is not limited to, a grocery store, pharmacy,
12 convenience store, and general merchandise store.

13 "Single retail transaction" means a sale by a retail distributor to a
14 specific customer at a specific time.

15 "Targeted methamphetamine manufacturing chemical" means any
16 medication in the form of a tablet, capsule or caplet that is approved
17 by the United States Food and Drug Administration for over-the-
18 counter sale without a prescription, and that contains more than 15
19 milligrams of ephedrine or its salts, optical isomers or salts of optical
20 isomers, or more than 15 milligrams of pseudoephedrine or its salts,
21 optical isomers or salts of optical isomers. The term excludes
22 medication in the form of a liquid, liquid cap, gel cap, or other similar
23 substance, or any medication dispensed by a licensed pharmacist
24 pursuant to a valid prescription.

25 "Targeted package" means a package that is marked for retail sale,
26 that is not designed to be further broken down or subdivided for the
27 purpose of retail sale, and that contains a targeted methamphetamine
28 manufacturing chemical.

29
30 2. All targeted packages shall be kept behind a counter in an area
31 not accessible to customers, or in a locked case so that a customer
32 seeking access to a targeted package must ask a store employee for
33 assistance.

34
35 3. a. A retail distributor or its employees or agents shall not sell
36 more than two targeted packages in a single retail transaction.

37 b. A retail distributor or its employees or agents shall not sell a
38 targeted package with knowledge that its contents will be used to
39 manufacture methamphetamine, or with reckless disregard of the likely
40 use of such package to manufacture methamphetamine.

41
42 4. a. An owner or operator of a retail distributor who violates any
43 provision of this act is guilty of a petty disorderly persons offense and
44 subject to a fine of up to \$500 for a first offense. For each subsequent
45 offense occurring at the same retail location within three years of the
46 prior offense, the person shall be guilty of disorderly persons offense

1 and subject to a fine of up to \$1,000.

2 b. It is an affirmative defense to a prosecution under subsection a.
3 of this section that the conduct which would otherwise be an offense
4 was justifiable by reason of necessity if the actor was without blame
5 in occasioning or developing the situation and reasonably believed
6 such conduct was necessary to avoid a public or private injury greater
7 than the injury which might reasonably result from his own conduct.

8

9 5. If the United States Drug Enforcement Administration has
10 formally certified that a targeted methamphetamine manufacturing
11 chemical has been produced in a manner that prevents its use for the
12 manufacture of methamphetamine, the provisions of sections 2 and 3
13 of this act shall not apply to the sale of the targeted methamphetamine
14 manufacturing chemical produced in that manner.

15

16 6. Nothing in this act shall be construed to conflict with,
17 contradict, restrict, or in any way limit the enforcement of any federal
18 or State law.

19

20 7. This act shall take effect on the 90th day after enactment.

21

22

23

STATEMENT

24

25 This bill would restrict the sale of certain over-the-counter products
26 that contain ingredients that can be used to manufacture
27 methamphetamine.

28 Pseudoephedrine is the essential ingredient in methamphetamine,
29 also called "crystal meth." It can be manufactured by cooking over-
30 the-counter cold pills in a home laboratory. Methamphetamine
31 frequently results in violent behavior, hyperactivity, euphoria, tremors
32 and paranoia. Withdrawal from high doses of methamphetamine
33 produces severe depression, and chronic abuse produces psychosis
34 similar to schizophrenia. Large numbers of high school children are
35 becoming addicted to methamphetamine, and the National Institute on
36 Drug Abuse regards it as the fastest growing drug threat in America.
37 The purpose of this bill is to make it more difficult for persons
38 engaged in the unlawful manufacture of methamphetamine to obtain
39 methamphetamine manufacturing chemicals.

40 This bill requires that packages containing more than 15 milligrams
41 of ephedrine or pseudoephedrine (methamphetamine manufacturing
42 ingredients) be kept behind a store counter or in a locked case so that
43 customers must ask for assistance. The bill also prohibits retail stores
44 from selling in any single transaction more than two packages of
45 medication containing more than 15 milligrams of ephedrine or
46 pseudoephedrine. Since over-the-counter tablets or capsules

1 containing ephedrine and pseudoephedrine are primarily used in the
2 illicit manufacture of methamphetamine, the bill excludes liquid and gel
3 caps. The bill also prohibits stores from selling packages containing
4 methamphetamine manufacturing ingredients with knowledge that they
5 will be used to manufacture methamphetamine, or with reckless
6 disregard of the likely use of such package to manufacture
7 methamphetamine.

8 The bill provides penalties for violations of the provisions of this
9 bill: the owner or the operator of a retail distributor who violates any
10 provision of this bill is guilty of a petty disorderly persons offense and
11 subject to a fine of up to \$500 for a first offense. For a second or
12 subsequent offense occurring at the same retail location within 3 years
13 of the prior offense, a person shall be guilty of a disorderly persons
14 offense and subject to a fine of up to \$1,000. The bill also provides an
15 affirmative defense to a prosecution that the conduct which would
16 otherwise be an offense under the bill was justifiable by reason of
17 necessity if the actor was without blame in occasioning or developing
18 the situation and reasonably believed such conduct was necessary to
19 avoid a public or private injury greater than the injury which might
20 reasonably result from his own conduct.

ASSEMBLY HEALTH AND HUMAN SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 4035

STATE OF NEW JERSEY

DATED: JUNE 9, 2005

The Assembly Health and Human Services Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 4035.

This committee substitute is intended to impose reasonable restrictions on the sale of substances such as ephedrine and pseudoephedrine (commonly sold over-the-counter as decongestants and cold remedies) that can be used to make methamphetamine, in the form of "crystal meth," in a drug user's home, without imposing arduous constraints on such sales. The substitute also criminalizes the possession of anhydrous ammonia (a caustic and dangerous chemical used as a source of nitrogen fertilizer in agricultural production) for the purpose of using it to manufacture methamphetamine.

The substitute provides specifically as follows:

- C No person is permitted to offer for sale or purchase in any single transaction more than three packages, or any number of packages that contain a total of nine grams, of any drug containing a sole active ingredient of ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers or salts of optical isomers, or three packages of any combination drug containing, as one of its active ingredients, ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers or salts of optical isomers, or any number of packages of such combination drug that contain a total of nine grams of ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers or salts of optical isomers.
- C A person who buys or sells these substances in violation of the substitute is guilty of a disorderly persons offense (which is punishable by a term of imprisonment of up to six months or a fine of up to \$1,000, or both).
- C The substitute would not apply to a drug lawfully prescribed or administered by a licensed physician, veterinarian or dentist.
- C Every pharmacy, store and other retail mercantile establishment is required to promptly communicate to local law enforcement authorities the confirmed report of, or actual knowledge of a loss of, 30 or more grams of any drug containing a sole active

ingredient of any of these substances.

- C The substitute establishes a permissive inference, to be used in prosecutions, that a person acted with a purpose to create methamphetamine if there is proof that he has in his possession more than 30 grams or 10 packages of any drug containing the listed substances.
- C The substitute amends N.J.S.A.2C:20-2 to make it a crime of the third degree (which is punishable by a term of imprisonment of three to five years or a fine of up to \$15,000, or both) for a person to possess stolen anhydrous ammonia with the intent to manufacture methamphetamine.
- C The substitute makes it a crime of the second degree (which is punishable by a term of imprisonment of five to 10 years or a fine of up to \$150,000, or both) for a person to unlawfully possess certain precursors under certain circumstances.

-- A person is to be guilty of the crime of unlawful possession of a precursor if the person knowingly or purposely possesses anhydrous ammonia with intent to unlawfully manufacture methamphetamine or any of its analogs.

-- A person is to be guilty of the crime of unlawful possession of a precursor if the person knowingly or purposely possesses phenylalanine with intent to unlawfully manufacture methamphetamine or amphetamine or any of their analogs.

-- A person is to be guilty of the crime of unlawful possession of a precursor if the person knowingly or purposely possesses, with intent to manufacture a controlled dangerous substance or controlled substance analog, any of the following: (1) carbamide (urea) and propanediol and malonic acid or its derivatives; (2) ergot or an ergot derivative and diethylamine or dimethyl-formamide or diethylamide; (3) phenylacetone (1-phenyl-2 propanone); (4) pentazocine and methyl iodide; (5) phenylacetonitrile and dichlorodiethyl methylamine or dichlorodiethyl benzylamine; (6) diphenylacetonitrile and dimethylaminoisopropyl chloride; (7) piperidine and cyclohexanone and bromobenzene and lithium or magnesium; (8) 2, 5-dimethoxy benzaldehyde and nitroethane and a reducing agent.

-- A person is to be guilty of the crime of unlawful possession of a precursor if the person, with intent to unlawfully manufacture methamphetamine, knowingly or purposely possesses ephedrine (including its salts, isomers or salts of isomers), norpseudoephedrine (including its salts, isomers or salts of isomers), n-methylephedrine (including its salts, isomers or salts of isomers), n-methylpseudoephedrine (including its salts, isomers or salts of isomers), or pseudoephedrine (including its salts, isomers or salts of isomers). Proof that a person in possession of these substances at the same time also possesses any of the following substances is to give rise to a permissive inference by the trier of fact that the person acted with intent to unlawfully manufacture methamphetamine: (1) amorphous (red) phosphorus or white phosphorus; (2) hydroiodic acid; (3)

anhydrous ammonia; (4) sodium; and (5) lithium.

C The substitute requires the New Jersey Department of Agriculture to conduct a study on the feasibility of using an additive to anhydrous ammonia sold as agricultural fertilizer to inhibit or prevent its illicit use in the manufacturing of the drug methamphetamine.

-- The study is to consider: the effectiveness of potential additives in inhibiting or preventing the use of anhydrous ammonia to manufacture the drug methamphetamine; expected final cost of any potential additives; the human health hazards, hazards to fish, shellfish and wildlife, and environmental hazards of any potential additives as compared to the same hazards posed by anhydrous ammonia; and the extent which the additives would be expected to reduce the effectiveness or usefulness of anhydrous ammonia as an agricultural fertilizer.

-- The department is to report to the Legislature and the Governor, no later than one year after the effective date of the substitute, on its recommendations to require or encourage the use of an additive to anhydrous ammonia to inhibit or prevent its use in the manufacture of methamphetamine.

C The substitute takes effect on the 90th day after enactment.

STATEMENT TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 4035

with Assembly Floor Amendments
(Proposed By Assemblywoman STENDER)

ADOPTED: JUNE 23, 2005

These floor amendments would clarify that the restrictions on sales of drugs containing ephedrine, pseudoephedrine, or phenylpropanolamine are intended to apply only to retail sales of these drugs and are not applicable to wholesalers.

PO BOX 004
TRENTON, NJ 08625

Contact: Kelley Heck
609-777-2600

RELEASE: August 24, 2005

Codey Signs Bills Cracking Down on Illegal Sale, Use of Prescription and OTC Drugs

Bills will Regulate Wholesale Drug Distributors and Target Makers of "Crystal Meth"

(TRENTON) –Acting Governor Richard J. Codey today signed into law a package of bills designed to crack down on the booming black market of stolen prescription drugs and prevent certain over the counter drugs from being used to manufacture dangerous methamphetamines. The legislation was conceived in response to the largest pharmaceutical drug bust in state history, which took place in Bergen County in March 2004.

“People caught selling stolen or counterfeit prescription drugs should not receive a slap on the wrist. Their very actions threaten the public welfare while preying on innocent victims,” said Codey. “A person pushing these drugs is no different than a crack-cocaine dealer when it comes to jeopardizing the public’s health.”

“By strengthening the regulation of wholesale drug distributors and increasing the penalties for illegal distribution and possession of prescription drugs, we are making sure that some of our most vulnerable citizens receive the life-saving medications they need – untainted,” Codey said.

Codey signed the three bills during a public ceremony at HD Smith, a wholesale drug distributor in Carlstadt. He was joined by bill sponsors, including Senators Paul A. Sarlo (D-Bergen, Essex, Passaic) and Joseph M. Kyrillos (R-Middlesex, Monmouth) and Assembly members Frederick Scalera (D-Bergen, Essex, Passaic) and Linda Stender (D-Middlesex, Somerset, Union). Also in attendance were Health and Senior Services Commissioner Fred M. Jacobs, M.D., J.D. and Bergen County Prosecutor John Mollinelli.

The three bills are:

S1428, which upgrades the penalties for unlawful distribution and possession of prescription drugs from a disorderly persons offense to a third and fourth degree crime, respectively. The bill’s sponsors include Senators Paul A. Sarlo (D-Bergen, Essex, Passaic), Joseph V. Doria, Jr. (D-Hudson) as well as Assembly members Frederick Scalera (D-Bergen, Essex, Passaic), Linda R. Greenstein (D-Mercer, Middlesex), Joseph Vas (D-Middlesex) and Neil M.Cohen (D-Union).

"Today we are saying that a drug dealer is a drug dealer. There is no difference between trafficking black market prescription drugs or trafficking illegal narcotics," said Sarlo. "I am proud to have sponsored this comprehensive legislation that will protect New Jersey's consumers, pharmacies and pharmaceutical industry from criminal elements."

S1753 establishes licensing requirements and standards for pharmaceutical wholesale distribution. The bill's sponsors include Senators Joseph F. Vitale (D-Middlesex) and Paul A. Sarlo (D-Bergen, Essex, Passaic).

"Today New Jersey is taking an important step in protecting New Jersey consumers from counterfeit and subpotent pharmaceuticals," said Vitale, Chair of the Senate Health, Human Services and Senior Citizens Committee. "For too long the federal government has delayed in enforcing its own laws in this area, so we are taking action to make sure that when someone picks up a prescription from the pharmacy, the medicine they get is safe and effective."

"This law will go a long way in protecting consumers from serious health and safety risks posed by counterfeit drugs. Increased fines and penalties and improved regulations for record-keeping, storage, transportation and distribution, demonstrate that New Jersey will not tolerate attempts to defraud and harm the public," said Dr. Jacobs.

S2320 restricts sales of ephedrine and pseudoephedrine and criminalizes certain possessions of anhydrous ammonia as precursors in the manufacturing of methamphetamine. The bill's sponsors include Senators Paul A. Sarlo (D-Bergen, Essex, Passaic), Joseph M. Kyrillos, Jr. (R-Middlesex, Monmouth) and Assembly members Linda Stender (D-Middlesex, Somerset, Union), Neil M. Cohen (D-Union) and Frederick Scalera (D-Bergen, Essex, Passaic).

Methamphetamine is a central nervous system stimulant like cocaine and caffeine. In the form of crystal meth, it can be produced relatively easily using ephedrine and pseudoephedrine as ingredients. Because these ingredients have many legitimate medical uses and are commonly sold over-the-counter as cold remedies, the new law is intended to make it more difficult to obtain the drugs for uses other than their legitimate medical purposes.

"Statistics indicate that states that have enacted legislation limiting the sale of products containing ephedrine and pseudoephedrine experienced a substantial decline in the number of meth labs. This bill is proactive as well as preventive legislation that will limit the potential inception of meth labs," said Scalera.

New Jersey now joins the growing list of more than 30 states that have imposed restrictions on the sale of products containing ephedrine and pseudoephedrine. New Jersey's legislation is part of a proactive measure to curb the spread of the methamphetamine epidemic, which is currently plaguing many mid-Western states and rural communities.