

BILL ANALYSIS

Senate Research Center

H.B. 3351
By: Keffer (Haywood)
Criminal Justice
5/7/2001
Engrossed

DIGEST AND PURPOSE

Throughout the state, the illicit manufacture of methamphetamine is a serious problem. Prosecutors have encountered difficulty with appellate law concerning possession of a controlled substance, meaning methamphetamine precursors, with intent to manufacture a controlled substance, meaning the methamphetamine itself. The courts have held that "manufacture" constitutes a finished product, with its penalty associated with the quantity of finished product. H.B. 3351 sets forth provisions regarding the conditions under which intent to manufacture methamphetamine is presumed, and provides penalties for the intent to manufacture.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 481.002(5), Health and Safety Code, to amend the definition of "controlled substance" by deleting the text "an immediate precursor."

SECTION 2. Amends Section 481.112(a), Health and Safety Code, to delete reference regarding intentionally and manufacture.

SECTION 3. Amends Section 481.1121(a), Health and Safety Code, to make a conforming change.

SECTION 4. Amends Section 481.113(a), Health and Safety Code, to make conforming changes.

SECTION 5. Amends Section 481.114(a), Health and Safety Code, to make conforming changes.

SECTION 6. Amends Section 481.119(a), Health and Safety Code, to make conforming changes.

SECTION 7. Amends Chapter 481D, Health and Safety Code, by adding Section 481.124, as follows:

Sec. 481.124. OFFENSE: POSSESSION OR TRANSPORT OF CERTAIN CHEMICALS WITH INTENT TO MANUFACTURE CONTROLLED SUBSTANCE. (a) Provides that a person commits an offense if, with intent to unlawfully manufacture a controlled substance, the person possesses or transports certain substances.

(b) Provides that an intent to unlawfully manufacture the controlled substance methamphetamine is presumed if the actor possesses or transports certain substances.

(c) Provides that a substance is presumed to be anhydrous ammonia if the substance is in a container or receptacle that meets certain specifications.

(d) Provides that an offense under this section is a certain offense.

(e) Authorizes the actor, if conduct constituting an offense under this section also constitutes an offense under another section of this code, to be prosecuted under either section or under both sections.

SECTION 8. Amends Section 504.001(b), Health and Safety Code, to provide that an offense under this section is a felony of the third degree, rather than a state jail felony.

SECTION 9. Amends Section 504.002(b), Health and Safety Code, to provide that an offense under this section is a felony of the third degree, rather than a state jail felony.

SECTION 10. Amends Section 551.003(11), Occupations Code, to redefine “controlled substance.”

SECTION 11. Makes application of this Act prospective.

SECTION 12. Effective date: September 1, 2001.