

BILL ANALYSIS

S.B. 66
By: Nelson
Law Enforcement
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Methamphetamine production and abuse is increasing in Texas. The Department of Public Safety reports that state and local law enforcement raided 1,955 methamphetamine labs between 2000 and 2003. The number of labs seized has increased significantly, from 182 in 2000 to 710 in 2003.

C.S.S.B. 66 aims to deter methamphetamine production and abuse by creating a voluntary program to limit the sale or theft of over-the-counter products containing pseudoephedrine, used in the manufacturing process of methamphetamine; protecting children exposed to methamphetamine production by creating a drug-endangered child initiative; and supporting prevention efforts.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Subtitle B, Title 6, Health and Safety Code, by adding Chapter 468, as follows:

CHAPTER 468. PROGRAMS AND INITIATIVES TO PREVENT THE MANUFACTURE AND USE OF METHAMPHETAMINE

SUBCHAPTER A. METHAMPHETAMINE WATCH PROGRAM

Sec. 468.001. DEFINITIONS. Defines "department" and "program"

Sec. 468.002. METHAMPHETAMINE WATCH PROGRAM. (a) Requires the Department of State Health Services (DSHS) to implement a methamphetamine watch program to inform retailers of the problems associated with the illicit manufacture and use of methamphetamine in this state and encourage retailers to limit patron accessibility to products used in the illicit manufacture of methamphetamine, including products containing ephedrine or pseudoephedrine.

(b) Requires DSHS to implement the program in consultation with the Department of Public Safety (DPS) and other necessary state agencies. Requires DSHS to involve certain entities in determining the manner in which to implement the program.

Sec. 468.003. RETAILER PARTICIPATION. (a) Provides that retailer participation in the program is voluntary.

(b) Requires a retailer participating in the program to make reasonable efforts to deter the theft or improper sale of products used in the illicit manufacture of methamphetamine, including products containing ephedrine or pseudoephedrine, by following certain guidelines.

Sec. 468.004. GOOD FAITH REPORTING; LIMITATION ON LIABILITY. (a) Requires DSHS, in consultation with DPS and local law enforcement agencies, to establish guidelines for retailers and retail personnel to make in good faith, reports of theft, suspicious purchases, or other transactions involving products used in the illicit manufacture of

methamphetamine. Requires guidelines to be designed to ensure certain reports are made to law enforcement agencies only under certain conditions and a person is not encouraged to maintain any record of certain legitimate purchases or transactions.

(b) Requires DSHS to involve retailers in determining to involve retailers in determining the manner in which to implement the guidelines established under Subsection (a).

(c) Provides that a person is not liable for damages, other than economic damages, from an act relating to the reporting of information made in good faith and in accordance with the guidelines.

Sec. 468.005. FALSE REPORT; PENALTY. (a) Provides that a person commits an offense if the person knowingly makes a report or causes a report to be made to a law enforcement agency of a theft, suspicious purchase, or other transaction involving a product used in the manufacture of methamphetamine and the person knows the report is false.

(b) Provides that an offense under this section is a Class C misdemeanor.

[Reserves Sections 468.006-468.050 for expansion.]

SUBCHAPTER B. PREVENTION AND EDUCATION PROGRAMS

Sec. 468.051. PROGRAMS DESIGNED TO HELP STUDENTS. Requires DSHS, in administering human services programs as required by Section 1001.073 (General Powers and Duties of Department Related to Substance Abuse), to administer, coordinate, and contract for the delivery of programs designed to prevent the use of methamphetamine among students enrolled in schools in this state; and provide education to appropriate school personnel and parents of school-age children on identifying and helping children who use methamphetamine or who are exposed to chemicals and other hazardous materials used to manufacture methamphetamine.

Sec. 468.052. EDUCATION REGARDING ANHYDROUS AMMONIA. (a) Requires the Office of the Texas State Chemist of the Texas Agricultural Experiment Station (office), in cooperation with other state agencies, to distribute materials used to educate certain persons regarding the use of anhydrous ammonia in the illicit manufacturing of methamphetamine; and practices and equipment that can be used to deter theft of anhydrous ammonia.

(b) Requires the office, in the materials distributed under this section, to encourage local law enforcement and community groups to cooperate in deterring the theft of anhydrous ammonia.

[Reserves Sections 468.053-468.100 for expansion.]

SUBCHAPTER C. DRUG-ENDANGERED CHILD INITIATIVE

Sec. 468.101. DEFINITIONS. Defines "child" and "department."

Sec. 468.102. DRUG-ENDANGERED CHILD INITIATIVE. Requires the Department of Family and Protective Services (DFPS) to establish a drug-endangered child initiative aimed at protecting children who are exposed to methamphetamine or to chemicals and other hazardous materials used in illicit manufacture of methamphetamine.

Sec. 468.103. DUTY TO REPORT; DEPARTMENT RECORDS. (a) Requires DPS and each local law enforcement agency to report to DFPS on discovering the presence of a child in a location where methamphetamine is manufactured, as long as the reporting does not interfere with an ongoing criminal investigation.

(b) Requires DFPS to maintain a record of reports received and to include in the record information regarding actions taken by DFPS to ensure the child's safety and well-being.

SECTION 2. (a) Requires DSHS to take all action necessary to provide for implementation of the programs and materials required by Subchapter A, Chapter 468, Health and Safety Code, as added by this Act, and section 468.051, Health and Safety Code, as added by this Act, no later than September 1, 2006.

(b) Requires the Office of Texas State Chemist of the Texas Agriculture Experiment Station to take all action necessary to provide for the distribution of materials required by Section 468.052, Health and Safety Code, as added by this Act, not later than September 1, 2006.

(c) Requires DFPS to take all action necessary to provide for the implementation of the initiative required by Subchapter C, Chapter 468, Health and Safety Code, as added by this Act, no later than September 1, 2006.

(d) Makes application of Section 468.004, Health and Safety Code, as added by this Act, prospective.

(e) Provides that Section 468.004, Health and Safety Code, as added by this Act, is an exercise of authority under Section 66(c) (Limitation on Liability for Noneconomic Damages), Article III, Texas Constitution, and takes effect only if this Act receives a vote of three-fifths of all the members elected to each house, as provided by Section 66(e) of that article.

EFFECTIVE DATE

Upon passage, if the Act does not receive the necessary vote, the Act takes effect September 1, 2005.