

By: Nelson

S.B. No. 66

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of certain programs and initiatives designed to prevent the manufacture and use of methamphetamine; providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle B, Title 6, Health and Safety Code, is amended by adding Chapter 468 to read as follows:

CHAPTER 468. PROGRAMS AND INITIATIVES TO PREVENT

THE MANUFACTURE AND USE OF METHAMPHETAMINE

SUBCHAPTER A. METHAMPHETAMINE WATCH PROGRAM

Sec. 468.001. DEFINITIONS. In this subchapter:

(1) "Department" means the Department of State Health Services.

(2) "Program" means the methamphetamine watch program established under this subchapter.

Sec. 468.002. METHAMPHETAMINE WATCH PROGRAM. (a) The department shall implement a methamphetamine watch program to:

(1) inform retailers of the problems associated with the illicit manufacture and use of methamphetamine in this state; and

(2) encourage retailers to limit patron access to products used in the illicit manufacture of methamphetamine, including products containing pseudoephedrine.

(b) The department shall implement the program in

1 consultation with the Department of Public Safety of the State of
2 Texas and other state agencies as necessary. The department shall
3 involve retailers, state and local law enforcement agencies, local
4 governments, and community-based organizations in determining the
5 manner in which to implement the program.

6 Sec. 468.003. RETAILER PARTICIPATION. (a) Retailer
7 participation in the program is voluntary.

8 (b) A retailer participating in the program shall make
9 reasonable efforts to deter the theft or improper sale of products
10 used in the illicit manufacture of methamphetamine, including
11 products containing pseudoephedrine, by:

12 (1) implementing product management practices that
13 deter theft or suspicious purchases of the products, including
14 limiting the quantity of the products on display for purchase,
15 limiting the quantity of the products that may be purchased, and
16 placing the products in high-traffic areas;

17 (2) placing signs adjacent to the products and at
18 checkout counters to inform patrons of the retailer's participation
19 in the program; and

20 (3) providing annual personnel training on:

21 (A) items commonly purchased for use in the
22 illicit manufacture of methamphetamine;

23 (B) product management practices that deter
24 theft or suspicious purchases of products used in the illicit
25 manufacture of methamphetamine; and

26 (C) proper responses to observations of theft or
27 suspicious purchases of products used in the illicit manufacture of

1 methamphetamine.

2 Sec. 468.004. GOOD FAITH REPORTING; LIMITATION ON
3 LIABILITY. (a) In consultation with the Department of Public
4 Safety of the State of Texas and local law enforcement agencies, the
5 department shall establish guidelines for retailers and retail
6 personnel to follow in making good faith reports of thefts,
7 suspicious purchases, or other transactions involving products
8 used in the illicit manufacture of methamphetamine. The guidelines
9 must be designed to ensure that:

10 (1) reports are made to law enforcement agencies only
11 under circumstances that are believed to reasonably justify a
12 criminal investigation; and

13 (2) a person is not encouraged to maintain any record
14 of purchases that are made or other transactions that occur for
15 apparently legitimate purposes.

16 (b) The department shall involve retailers in determining
17 the manner in which to implement the guidelines established under
18 Subsection (a).

19 (c) A person is not liable for damages, other than economic
20 damages, from an act relating to the reporting of information made
21 in good faith and in accordance with the guidelines established
22 under this section.

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

false.

(b) An offense under this section is a Class C misdemeanor.

[Sections 468.006–468.050 reserved for expansion]

SUBCHAPTER B. PREVENTION AND EDUCATION PROGRAMS

Sec. 468.051. PROGRAMS DESIGNED TO HELP STUDENTS. In administering human services programs as required by Section 1001.073, the Department of State Health Services shall:

(1) administer, coordinate, and contract for the delivery of programs designed to prevent the use of methamphetamine among students enrolled in a public or private school in this state; and

(2) 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 in the manufacture of methamphetamine.

Sec. 468.052. EDUCATION REGARDING ANHYDROUS AMMONIA.

(a) In cooperation with other state agencies, the Office of the Texas State Chemist of the Texas Agricultural Experiment Station shall distribute materials used to educate distributors, farmers, retail dealers, cooperatives, and other appropriate persons regarding:

(1) the use of anhydrous ammonia in the illicit manufacture of methamphetamine; and

(2) practices and equipment that can be used to deter the theft of anhydrous ammonia.

(b) In the materials distributed under this section, the

1 Office of the Texas State Chemist shall encourage local law
2 enforcement and community groups to cooperate in deterring the
3 theft of anhydrous ammonia.

4 [Sections 468.053-468.100 reserved for expansion]

5 SUBCHAPTER C. DRUG-ENDANGERED

6 CHILD INITIATIVE

7 Sec. 468.101. DEFINITIONS. In this subchapter:

8 (1) "Child" means a person under 18 years of age.

9 (2) "Department" means the Department of Family and
10 Protective Services.

11 Sec. 468.102. DRUG-ENDANGERED CHILD INITIATIVE. The
12 department shall establish a drug-endangered child initiative
13 aimed at protecting children who are exposed to methamphetamine or
14 to chemicals and other hazardous materials used in the illicit
15 manufacture of methamphetamine.

16 Sec. 468.103. DUTY TO REPORT; DEPARTMENT RECORDS. (a) To
17 the extent that reporting does not interfere with an ongoing
18 criminal investigation, the Department of Public Safety of the
19 State of Texas and each local law enforcement agency shall report to
20 the department on discovering the presence of a child in a location
21 where methamphetamine is manufactured.

22 (b) The department shall maintain a record of reports
23 received under this section and shall include in the record
24 information regarding actions taken by the department to ensure the
25 child's safety and well-being.

26 SECTION 2. (a) The Department of State Health Services
27 shall take all action necessary to provide for the implementation

1 of the programs required by Subchapter A, Chapter 468, Health and
2 Safety Code, as added by this Act, and Section 468.051, Health and
3 Safety Code, as added by this Act, not later than September 1, 2006.

4 (b) The Office of the Texas State Chemist of the Texas
5 Agricultural Experiment Station shall take all action necessary to
6 provide for the distribution of materials required by Section
7 468.052, Health and Safety Code, as added by this Act, not later
8 than September 1, 2006.

9 (c) The Department of Family and Protective Services shall
10 take all action necessary to provide for the implementation of the
11 initiative required by Subchapter C, Chapter 468, Health and Safety
12 Code, as added by this Act, not later than September 1, 2006.

13 (d) Section 468.004, Health and Safety Code, as added by
14 this Act, applies only to a cause of action that accrues on or after
15 the effective date of this Act. An action that accrued before the
16 effective date of this Act is governed by the law applicable to the
17 action immediately before the effective date of this Act, and that
18 law is continued in effect for that purpose.

19 (e) Section 468.004, Health and Safety Code, as added by
20 this Act, is an exercise of authority under Subsection (c), Section
21 66, Article III, Texas Constitution, and takes effect only if this
22 Act receives a vote of three-fifths of all the members elected to
23 each house, as provided by Subsection (e), Section 66 of that
24 article.

25 SECTION 3. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

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- 1 Act does not receive the vote necessary for immediate effect, this
- 2 Act takes effect September 1, 2005.