

1-1 By: Van de Putte, et al. S.B. No. 112
1-2 (In the Senate - Filed November 23, 2004; February 1, 2005,
1-3 read first time and referred to Committee on Criminal Justice;
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1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 112 By: Hinojosa

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the civil and criminal consequences of engaging in
1-11 certain conduct related to the manufacture of methamphetamine and
1-12 to the distribution and retail sales of pseudoephedrine; providing
1-13 penalties.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 ARTICLE 1. CIVIL AND CRIMINAL CONSEQUENCES OF ENGAGING IN CERTAIN
1-16 CONDUCT RELATED TO THE MANUFACTURE OF METHAMPHETAMINE

1-17 SECTION 1.01. Section 99.003, Civil Practice and Remedies
1-18 Code, is amended to read as follows:

1-19 Sec. 99.003. STRICT LIABILITY AND MINIMUM DAMAGES FOR
1-20 EXPOSURE. A person who manufactures methamphetamine is strictly
1-21 liable for any exposure by an individual to the manufacturing
1-22 process, including exposure to the methamphetamine itself or any of
1-23 the byproducts or waste products incident to the manufacture, for
1-24 the greater of:

1-25 (1) actual damages for personal injury, death, or
1-26 property damage as a result of the exposure; or

1-27 (2) \$20,000 [~~\$10,000~~] for each incident of exposure.

1-28 SECTION 1.02. Section 262.104, Family Code, is amended to
1-29 read as follows:

1-30 Sec. 262.104. TAKING POSSESSION OF A CHILD IN EMERGENCY
1-31 WITHOUT A COURT ORDER. (a) If there is no time to obtain a
1-32 temporary restraining order or attachment before taking possession
1-33 of a child consistent with the health and safety of that child, an
1-34 authorized representative of the Department of Family and
1-35 Protective [~~and Regulatory~~] Services, a law enforcement officer, or
1-36 a juvenile probation officer may take possession of a child without
1-37 a court order under the following conditions, only:

1-38 (1) on personal knowledge of facts that would lead a
1-39 person of ordinary prudence and caution to believe that there is an
1-40 immediate danger to the physical health or safety of the child;

1-41 (2) on information furnished by another that has been
1-42 corroborated by personal knowledge of facts and all of which taken
1-43 together would lead a person of ordinary prudence and caution to
1-44 believe that there is an immediate danger to the physical health or
1-45 safety of the child;

1-46 (3) on personal knowledge of facts that would lead a
1-47 person of ordinary prudence and caution to believe that the child
1-48 has been the victim of sexual abuse;

1-49 (4) on information furnished by another that has been
1-50 corroborated by personal knowledge of facts and all of which taken
1-51 together would lead a person of ordinary prudence and caution to
1-52 believe that the child has been the victim of sexual abuse; or

1-53 (5) on information furnished by another that has been
1-54 corroborated by personal knowledge of facts and all of which taken
1-55 together would lead a person of ordinary prudence and caution to
1-56 believe that the parent or person who has possession of the child is
1-57 currently using a controlled substance as defined by Chapter 481,
1-58 Health and Safety Code, and the use constitutes an immediate danger
1-59 to the physical health or safety of the child.

1-60 (b) An authorized representative of the Department of
1-61 Family and Protective Services, a law enforcement officer, or a
1-62 juvenile probation officer may take possession of a child under
1-63 Subsection (a) on personal knowledge or information furnished by

2-1 another, that has been corroborated by personal knowledge, that
 2-2 would lead a person of ordinary prudence and caution to believe that
 2-3 the parent or person who has possession of the child has permitted
 2-4 the child to remain on premises used for the manufacture of
 2-5 methamphetamine.

2-6 SECTION 1.03. Subsection (b), Section 481.124, Health and
 2-7 Safety Code, is amended to read as follows:

2-8 (b) For purposes of this section, an intent to unlawfully
 2-9 manufacture the controlled substance methamphetamine is presumed
 2-10 if the actor possesses or transports:

2-11 (1) anhydrous ammonia in a container or receptacle
 2-12 that is not designed and manufactured to lawfully hold or transport
 2-13 anhydrous ammonia;

2-14 (2) lithium metal removed from a battery and immersed
 2-15 in kerosene, mineral spirits, or similar liquid that prevents or
 2-16 retards hydration; or

2-17 (3) in one container, vehicle, or building,
 2-18 phenylacetic acid, or more than nine grams, three containers
 2-19 packaged for retail sale, or 300 tablets or capsules of a product
 2-20 containing ephedrine or pseudoephedrine, and:

2-21 (A) anhydrous ammonia;
 2-22 (B) at least three of the following categories of
 2-23 substances commonly used in the manufacture of methamphetamine:

2-24 (i) lithium or sodium metal or red
 2-25 phosphorus, iodine, or iodine crystals;

2-26 (ii) lye, sulfuric acid, hydrochloric acid,
 2-27 or muriatic acid;

2-28 (iii) an organic solvent, including ethyl
 2-29 ether, alcohol, or acetone;

2-30 (iv) a petroleum distillate, including
 2-31 naphtha, paint thinner, or charcoal lighter fluid; or

2-32 (v) aquarium, rock, or table salt; or

2-33 (C) at least three of the following items:

2-34 (i) an item of equipment subject to
 2-35 regulation under Section 481.080, if the person is not registered
 2-36 under Section 481.063; or

2-37 (ii) glassware, a plastic or metal
 2-38 container, tubing, a hose, or other item specially designed,
 2-39 assembled, or adapted for use in the manufacture, processing,
 2-40 analyzing, storing, or concealing of methamphetamine.

2-41 ARTICLE 2. DISTRIBUTION AND RETAIL SALES OF PSEUDOEPHEDRINE

2-42 SECTION 2.01. Subtitle B, Title 6, Health and Safety Code,
 2-43 is amended by adding Chapter 468 to read as follows:

2-44 CHAPTER 468. METHAMPHETAMINE WATCH PROGRAM

2-45 Sec. 468.001. DEFINITIONS. In this chapter:

2-46 (1) "Department" means the Department of State Health
 2-47 Services.

2-48 (2) "Program" means the methamphetamine watch program
 2-49 established under this chapter.

2-50 (3) "Retailer" means a business establishment in this
 2-51 state that engages in over-the-counter retail sales of any product
 2-52 containing pseudoephedrine.

2-53 Sec. 468.002. ESTABLISHMENT OF METHAMPHETAMINE WATCH
 2-54 PROGRAM. The department shall establish a methamphetamine watch
 2-55 program to:

2-56 (1) inform retailers of the problems associated with
 2-57 the illicit manufacture and use of methamphetamine in this state;

2-58 (2) establish procedures and develop forms for
 2-59 retailers and other persons to use in reporting to the department
 2-60 any incidents of theft, suspicious purchases, or other transactions
 2-61 involving products used in the illicit manufacture of
 2-62 methamphetamine;

2-63 (3) increase community awareness of methamphetamine;

2-64 (4) encourage retailers, law enforcement, state and
 2-65 local agencies, and other persons to cooperate in efforts to reduce
 2-66 the diversion of legitimate products for use in the illicit
 2-67 manufacture of methamphetamine; and

2-68 (5) assist local communities in addressing problems
 2-69 created by the illicit manufacture and use of methamphetamine.

3-1 Sec. 468.003. GOOD FAITH REPORTING; LIMITATION ON
 3-2 LIABILITY. (a) In consultation with the Department of Public
 3-3 Safety and local law enforcement agencies, the department shall
 3-4 establish guidelines for retailers and retail personnel to follow
 3-5 in making good faith reports of thefts, suspicious purchases, or
 3-6 other transactions involving products used in the illicit
 3-7 manufacture of methamphetamine. The guidelines must be designed to
 3-8 ensure that:

3-9 (1) reports are made to law enforcement agencies only
 3-10 under circumstances that are believed to reasonably justify a
 3-11 criminal investigation; and

3-12 (2) a person is not encouraged to maintain any record
 3-13 of purchases that are made or other transactions that occur for
 3-14 apparently legitimate purposes.

3-15 (b) The department shall involve retailers in determining
 3-16 the manner in which to implement the guidelines established under
 3-17 Subsection (a).

3-18 (c) A person is not liable for damages, other than economic
 3-19 damages, from an act relating to the reporting of information made
 3-20 in good faith and in accordance with the guidelines established
 3-21 under this section.

3-22 Sec. 468.004. FALSE REPORT; PENALTY. (a) A person commits
 3-23 an offense if the person knowingly makes a report or causes a report
 3-24 to be made to a law enforcement agency of a theft, suspicious
 3-25 purchase, or other transaction involving a product used in the
 3-26 manufacture of methamphetamine and the person knows the report is
 3-27 false.

3-28 (b) An offense under this section is a Class C misdemeanor.

3-29 Sec. 468.005. GRANT PROGRAM. (a) The department shall
 3-30 implement a grant program for public and private organizations to
 3-31 engage in initiatives designed to support the methamphetamine watch
 3-32 program established under this chapter. The grant recipient may
 3-33 use grant money only to pay for an activity directly related to the
 3-34 purpose of an initiative described by this subsection.

3-35 (b) The department may accept gifts, grants, donations, and
 3-36 other contributions for the purpose of the grant program.

3-37 SECTION 2.02. Subchapter C, Chapter 481, Health and Safety
 3-38 Code, is amended by adding Section 481.0771 to read as follows:

3-39 Sec. 481.0771. RECORDS AND REPORTS ON PSEUDOEPHEDRINE.
 3-40 (a) A wholesaler who sells, transfers, or otherwise furnishes
 3-41 pseudoephedrine to a retailer shall:

3-42 (1) before delivering the pseudoephedrine, obtain
 3-43 from the retailer the retailer's address, area code, and telephone
 3-44 number; and

3-45 (2) make an accurate and legible record of the
 3-46 transaction and maintain the record for at least two years after the
 3-47 date of the transaction.

3-48 (b) The wholesaler shall submit to the director in
 3-49 accordance with department rule a monthly report that includes:

3-50 (1) the information required by Subsection (a)(1);

3-51 (2) the amount of pseudoephedrine delivered; and

3-52 (3) any other information required by the director.

3-53 (c) Not later than five business days after receipt of an
 3-54 order for pseudoephedrine that requests delivery of a suspicious
 3-55 quantity of pseudoephedrine as determined by department rule, a
 3-56 wholesaler shall submit to the director a report of the order in
 3-57 accordance with department rule.

3-58 (d) A wholesaler who, with reckless disregard for the duty
 3-59 to report, fails to report as required by Subsection (c) may be
 3-60 subject to disciplinary action in accordance with department rule.

3-61 SECTION 2.03. Subtitle C, Title 6, Health and Safety Code,
 3-62 is amended by adding Chapter 486 to read as follows:

3-63 CHAPTER 486. PSEUDOEPHEDRINE

3-64 SUBCHAPTER A. GENERAL PROVISIONS

3-65 Sec. 486.001. DEFINITIONS. (a) In this chapter:

3-66 (1) "Commissioner" means the commissioner of state
 3-67 health services.

3-68 (2) "Council" means the State Health Services Council.

3-69 (3) "Department" means the Department of State Health

4-1 Services.

4-2 (4) "Driver's license" and "personal identification
4-3 certificate" have the meanings assigned by Chapter 521,
4-4 Transportation Code.

4-5 (5) "Pseudoephedrine" means any compound, mixture, or
4-6 preparation containing any detectable amount of pseudoephedrine,
4-7 including its salts, optical isomers, and salts of optical isomers.
4-8 The term does not include any compounds, mixtures, or preparations
4-9 that are in liquid, liquid capsule, or gel capsule form unless
4-10 pseudoephedrine is the only active ingredient.

4-11 (6) "Sale" includes a conveyance, exchange, barter, or
4-12 trade.

4-13 (b) A term that is used in this chapter but is not defined by
4-14 Subsection (a) has the meaning assigned by Section 481.002.

4-15 Sec. 486.002. APPLICABILITY. This chapter does not apply
4-16 to the sale of any product dispensed or delivered by a pharmacist
4-17 according to a prescription issued by a practitioner for a valid
4-18 medical purpose and in the course of professional practice.

4-19 Sec. 486.003. RULES. The council shall adopt rules
4-20 necessary to implement and enforce this chapter.

4-21 Sec. 486.004. STATEWIDE UNIFORMITY. (a) To ensure uniform
4-22 and equitable implementation and enforcement throughout this
4-23 state, this chapter constitutes the whole field of regulation
4-24 regarding over-the-counter sales of products that contain
4-25 pseudoephedrine.

4-26 (b) This chapter preempts and supersedes a local ordinance,
4-27 rule, or regulation adopted by a political subdivision of this
4-28 state pertaining to over-the-counter sales of products that contain
4-29 pseudoephedrine.

4-30 [Sections 486.005-486.010 reserved for expansion]

4-31 SUBCHAPTER B. SALES OF PSEUDOEPHEDRINE

4-32 Sec. 486.011. SALES OF SINGLE-ENTITY PRODUCTS. A business
4-33 establishment that engages in over-the-counter sales of products
4-34 that contain pseudoephedrine as the only active ingredient shall
4-35 display the pseudoephedrine behind a counter, in a locked case, or
4-36 in a location accessible to a patron of the establishment only with
4-37 the assistance of an employee of the establishment.

4-38 Sec. 486.012. SALES OF PRODUCTS WITH ADDITIONAL ACTIVE
4-39 INGREDIENTS. A business establishment that engages in
4-40 over-the-counter sales of products that contain pseudoephedrine
4-41 combined with at least one other active ingredient shall:

4-42 (1) display those products behind a counter, in a
4-43 locked case, or in a location accessible to a patron of the
4-44 establishment only with the assistance of an employee of the
4-45 establishment;

4-46 (2) establish procedures to ensure that before
4-47 completing a sale of any of those products, the establishment:

4-48 (A) requires a person purchasing the product to
4-49 display a driver's license, personal identification certificate,
4-50 or another form of identification containing the person's
4-51 photograph and to sign for the product; and

4-52 (B) makes a record of the sale, including the
4-53 name of the person purchasing the product, the number of the
4-54 person's driver's license, personal identification certificate, or
4-55 other form of identification, and the date of purchase in a log
4-56 designated for that purpose; or

4-57 (3) adopt policies for the establishment to do at
4-58 least two of the following:

4-59 (A) maintain those products under video
4-60 surveillance in accordance with Section 486.013;

4-61 (B) maintain the products within 30 feet and in a
4-62 direct line of sight from a cash register or counter continually
4-63 staffed by at least one employee of the establishment;

4-64 (C) use shelving that restricts access so that:

4-65 (i) packages containing the products may be
4-66 removed from a shelf only one at a time; and

4-67 (ii) after a package containing any of
4-68 those products is removed from a shelf, a delay of not less than 15
4-69 seconds occurs before another package may be removed from the

5-1 shelf; or

5-2 (D) employ a reliable anti-theft device that uses
 5-3 package tags and detection alarms designed to prevent theft of a
 5-4 package containing any of those products.

5-5 Sec. 486.013. VIDEO SURVEILLANCE. A business establishment
 5-6 that maintains products containing pseudoephedrine under video
 5-7 surveillance shall:

5-8 (1) provide written notice to patrons, in conspicuous
 5-9 locations proximate to the products, that the patrons are under
 5-10 video surveillance;

5-11 (2) use equipment designed to ensure that a one-second
 5-12 video image is continually recorded not less frequently than every
 5-13 10 seconds;

5-14 (3) place the video recorder in a secure strategic
 5-15 location to ensure that a person examining the products or removing
 5-16 a package containing the products from the shelves clearly appears
 5-17 in the video images;

5-18 (4) make the recorded video images available to the
 5-19 department, a peace officer, or a law enforcement agency
 5-20 immediately on request; and

5-21 (5) preserve the recorded video images for not less
 5-22 than 72 hours.

5-23 Sec. 486.014. REQUIRED PERSONNEL TRAINING. (a) A business
 5-24 establishment that engages in over-the-counter sales of products
 5-25 containing pseudoephedrine shall provide personnel training about
 5-26 the use of those products in the illicit manufacture of
 5-27 methamphetamine. The training may be conducted by an individual
 5-28 instructor or by a computer-based program.

5-29 (b) An establishment that provides training under
 5-30 Subsection (a) shall require each employee who handles sales of
 5-31 products containing pseudoephedrine to submit to the
 5-32 establishment, not later than 30 days after the date on which the
 5-33 employee begins to handle sales of the products, a form signed by
 5-34 the employee stating that the employee:

5-35 (1) understands that products containing
 5-36 pseudoephedrine may be used in the illicit manufacture of
 5-37 methamphetamine and that methamphetamine may cause harm to
 5-38 individuals, families, and communities;

5-39 (2) is aware that state law regulates the sale of the
 5-40 products;

5-41 (3) is familiar with the employee's responsibilities
 5-42 in connection with enforcement of state laws regulating the sale of
 5-43 the products; and

5-44 (4) has completed a training program provided by the
 5-45 establishment regarding the matters described by Subdivisions
 5-46 (1)-(3).

5-47 (c) On receipt of a form submitted under Subsection (b), the
 5-48 establishment shall date the form and shall maintain the form
 5-49 during the employee's term of employment and for a period of not
 5-50 less than 30 days after completion of employment. The
 5-51 establishment shall make the form available to the department, a
 5-52 peace officer, or a law enforcement agency on request.

5-53 [Sections 486.015-486.020 reserved for expansion]

5-54 SUBCHAPTER C. ADMINISTRATIVE PENALTY

5-55 Sec. 486.021. IMPOSITION OF PENALTY. The department may
 5-56 impose an administrative penalty on a person who violates this
 5-57 chapter.

5-58 Sec. 486.022. AMOUNT OF PENALTY. (a) The amount of the
 5-59 penalty may not exceed \$1,000 for each violation, and each day a
 5-60 violation continues or occurs is a separate violation for purposes
 5-61 of imposing a penalty. The total amount of the penalty assessed for
 5-62 a violation continuing or occurring on separate days under this
 5-63 subsection may not exceed \$5,000.

5-64 (b) The amount shall be based on:

5-65 (1) the seriousness of the violation, including the
 5-66 nature, circumstances, extent, and gravity of the violation;

5-67 (2) the threat to health or safety caused by the
 5-68 violation;

5-69 (3) the history of previous violations;

6-1 (4) the amount necessary to deter a future violation;
6-2 (5) whether the violator demonstrated good faith,
6-3 including when applicable whether the violator made good faith
6-4 efforts to correct the violation; and
6-5 (6) any other matter that justice may require.
6-6 Sec. 486.023. REPORT AND NOTICE OF VIOLATION AND PENALTY.
6-7 (a) If the department initially determines that a violation
6-8 occurred, the department shall give written notice of the report by
6-9 certified mail to the person.
6-10 (b) The notice must:
6-11 (1) include a brief summary of the alleged violation;
6-12 (2) state the amount of the recommended penalty; and
6-13 (3) inform the person of the person's right to a
6-14 hearing on the occurrence of the violation, the amount of the
6-15 penalty, or both.
6-16 Sec. 486.024. PENALTY TO BE PAID OR HEARING REQUESTED.
6-17 (a) Before the 21st day after the date the person receives notice
6-18 under Section 486.023, the person in writing may:
6-19 (1) accept the determination and recommended penalty;
6-20 or
6-21 (2) make a request for a hearing on the occurrence of
6-22 the violation, the amount of the penalty, or both.
6-23 (b) If the person accepts the determination and recommended
6-24 penalty or if the person fails to respond to the notice, the
6-25 commissioner by order shall approve the determination.
6-26 Sec. 486.025. HEARING. (a) If the person requests a
6-27 hearing, the commissioner shall refer the matter to the State
6-28 Office of Administrative Hearings, which shall promptly set a
6-29 hearing date and give written notice of the time and place of the
6-30 hearing to the person. An administrative law judge of the State
6-31 Office of Administrative Hearings shall conduct the hearing.
6-32 (b) The administrative law judge shall make findings of fact
6-33 and conclusions of law and promptly issue to the commissioner a
6-34 proposal for a decision about the occurrence of the violation and
6-35 the amount of a proposed penalty.
6-36 Sec. 486.026. DECISION BY COMMISSIONER. (a) Based on the
6-37 findings of fact, conclusions of law, and proposal for a decision,
6-38 the commissioner by order may:
6-39 (1) find that a violation occurred and impose a
6-40 penalty; or
6-41 (2) find that a violation did not occur.
6-42 (b) The notice of the commissioner's order under Subsection
6-43 (a) that is sent to the person in the manner provided by Chapter
6-44 2001, Government Code, must include a statement of the right of the
6-45 person to judicial review of the order.
6-46 Sec. 486.027. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.
6-47 Before the 31st day after the date the order under Section 486.026
6-48 that imposes an administrative penalty becomes final, the person
6-49 shall:
6-50 (1) pay the penalty; or
6-51 (2) file a petition for judicial review of the order
6-52 contesting the occurrence of the violation, the amount of the
6-53 penalty, or both.
6-54 Sec. 486.028. STAY OF ENFORCEMENT OF PENALTY. (a) Within
6-55 the period prescribed by Section 486.027, a person who files a
6-56 petition for judicial review may:
6-57 (1) stay enforcement of the penalty by:
6-58 (A) paying the penalty to the court for placement
6-59 in an escrow account; or
6-60 (B) giving the court a supersedeas bond approved
6-61 by the court that:
6-62 (i) is for the amount of the penalty; and
6-63 (ii) is effective until all judicial review
6-64 of the order is final; or
6-65 (2) request the court to stay enforcement of the
6-66 penalty by:
6-67 (A) filing with the court a sworn affidavit of
6-68 the person stating that the person is financially unable to pay the
6-69 penalty and is financially unable to give the supersedeas bond; and

7-1 (B) sending a copy of the affidavit to the
 7-2 commissioner by certified mail.

7-3 (b) Following receipt of a copy of an affidavit under
 7-4 Subsection (a)(2), the commissioner may file with the court, before
 7-5 the sixth day after the date of receipt, a contest to the affidavit.
 7-6 The court shall hold a hearing on the facts alleged in the affidavit
 7-7 as soon as practicable and shall stay the enforcement of the penalty
 7-8 on finding that the alleged facts are true. The person who files an
 7-9 affidavit has the burden of proving that the person is financially
 7-10 unable to pay the penalty or to give a supersedeas bond.

7-11 Sec. 486.029. COLLECTION OF PENALTY. (a) If the person
 7-12 does not pay the penalty and the enforcement of the penalty is not
 7-13 stayed, the penalty may be collected.

7-14 (b) The attorney general may sue to collect the penalty.

7-15 Sec. 486.030. DECISION BY COURT. (a) If the court
 7-16 sustains the finding that a violation occurred, the court may
 7-17 uphold or reduce the amount of the penalty and order the person to
 7-18 pay the full or reduced amount of the penalty.

7-19 (b) If the court does not sustain the finding that a
 7-20 violation occurred, the court shall order that a penalty is not
 7-21 owed.

7-22 Sec. 486.031. REMITTANCE OF PENALTY AND INTEREST. (a) If
 7-23 the person paid the penalty and if the amount of the penalty is
 7-24 reduced or the penalty is not upheld by the court, the court shall
 7-25 order, when the court's judgment becomes final, that the
 7-26 appropriate amount plus accrued interest be remitted to the person
 7-27 before the 31st day after the date that the judgment of the court
 7-28 becomes final.

7-29 (b) The interest accrues at the rate charged on loans to
 7-30 depository institutions by the New York Federal Reserve Bank.

7-31 (c) The interest shall be paid for the period beginning on
 7-32 the date the penalty is paid and ending on the date the penalty is
 7-33 remitted.

7-34 Sec. 486.032. RELEASE OF BOND. (a) If the person gave a
 7-35 supersedeas bond and the penalty is not upheld by the court, the
 7-36 court shall order, when the court's judgment becomes final, the
 7-37 release of the bond.

7-38 (b) If the person gave a supersedeas bond and the amount of
 7-39 the penalty is reduced, the court shall order the release of the
 7-40 bond after the person pays the reduced amount.

7-41 Sec. 486.033. ADMINISTRATIVE PROCEDURE. A proceeding to
 7-42 impose the penalty is considered to be a contested case under
 7-43 Chapter 2001, Government Code.

7-44 ARTICLE 3. TRANSITION LANGUAGE AND EFFECTIVE DATE

7-45 SECTION 3.01. Section 99.003, Civil Practice and Remedies
 7-46 Code, as amended by this Act, applies only to a cause of action that
 7-47 accrues on or after September 1, 2005. An action that accrued
 7-48 before September 1, 2005, is governed by the law applicable to the
 7-49 action immediately before September 1, 2005, and that law is
 7-50 continued in effect for that purpose.

7-51 SECTION 3.02. Subsection (b), Section 481.124, Health and
 7-52 Safety Code, as amended by this Act, applies only to an offense
 7-53 committed on or after September 1, 2005. An offense committed
 7-54 before September 1, 2005, is covered by the law in effect when the
 7-55 offense was committed, and the former law is continued in effect for
 7-56 that purpose. For purposes of this section, an offense was
 7-57 committed before September 1, 2005, if any element of the offense
 7-58 was committed before that date.

7-59 SECTION 3.03. (a) The Department of State Health Services
 7-60 shall take all action necessary to establish the methamphetamine
 7-61 watch program as required by Chapter 468, Health and Safety Code, as
 7-62 added by this Act, not later than September 1, 2005.

7-63 (b) Section 468.003, Health and Safety Code, as added by
 7-64 this Act, applies only to a cause of action that accrues on or after
 7-65 the effective date of this Act. An action that accrued before the
 7-66 effective date of this Act is governed by the law applicable to the
 7-67 action immediately before the effective date of this Act, and that
 7-68 law is continued in effect for that purpose.

7-69 (c) Section 468.003, Health and Safety Code, as added by

8-1 this Act, is an exercise of authority under Subsection (c), Section
8-2 66, Article III, Texas Constitution, and takes effect only if this
8-3 Act receives a vote of three-fifths of all the members elected to
8-4 each house, as provided by Subsection (e), Section 66 of that
8-5 article.

8-6 (d) The Department of State Health Services shall take all
8-7 action necessary to begin implementation of the grant program
8-8 required under Section 468.005, Health and Safety Code, as added by
8-9 this Act, not later than September 1, 2005.

8-10 SECTION 3.04. The director of the Department of Public
8-11 Safety of the State of Texas shall adopt any rules necessary to
8-12 administer and enforce Section 481.0771, Health and Safety Code, as
8-13 added by this Act, not later than September 1, 2005.

8-14 SECTION 3.05. The State Health Services Council shall adopt
8-15 rules to implement and enforce Chapter 486, Health and Safety Code,
8-16 as added by this Act, not later than September 1, 2005.

8-17 SECTION 3.06. This Act takes effect immediately if it
8-18 receives a vote of two-thirds of all the members elected to each
8-19 house, as provided by Section 39, Article III, Texas Constitution.
8-20 If this Act does not receive the vote necessary for immediate
8-21 effect, this Act takes effect September 1, 2005.

8-22

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