

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

May 5, 2005

TO: Honorable Jane Nelson, Chair, Senate Committee on Health & Human Services

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB107 by Estes (Relating to prohibitions on engaging in conduct related to the manufacture of methamphetamine and to the regulation and wholesale distribution of certain chemical substances; providing penalties.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB107, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2007.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2006	\$0
2007	\$0
2008	\$0
2009	\$0
2010	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings from <i>FOOD & DRUG REGISTRATION</i> 5024	Probable Revenue (Loss) from <i>FOOD & DRUG REGISTRATION</i> 5024	Change in Number of State Employees from FY 2005
2006	\$631,741	(\$1,818,000)	(11.0)
2007	\$631,741	(\$1,212,000)	(11.0)
2008	\$631,741	(\$1,212,000)	(11.0)
2009	\$631,741	(\$1,212,000)	(11.0)
2010	\$631,741	(\$1,212,000)	(11.0)

Fiscal Analysis

Article 1 of the bill would provide criminal consequences for engaging in conduct related to the manufacture of methamphetamine. An offense under this section would be a third degree felony.

Article 2 of the bill would regulate the chemical precursors to methamphetamine and over-the-counter sales of ephedrine, pseudoephedrine, and norpseudoephedrine.

Article 3 of the bill would regulate wholesale nonprescription drug distributors.

Methodology

Article 1 of the bill would include items used in the manufacture, processing, analyzing, storing, or concealing of methamphetamine in the offense of possession or transport of certain chemicals with intent to manufacture a controlled substance. An offense under this provision is punishable as a felony of the second degree if the controlled substance is listed in Penalty Group 1 or 1-A.

Since the bill proposes punishment for elements of criminal behavior for which there is no historical data, determining the impact of the felony provision bill on the criminal justice population is not possible. The number of persons in possession of materials designed, assembled, or adapted for use in the manufacture, processing, analyzing, storing, or concealing of methamphetamine is unknown. The provisions of the bill would make such actions punishable as felony offenses and the impact on the community supervision population or incarcerated population could be significant depending on the frequency of arrests and prosecutions for the newly created and enhanced offenses.

The Department of State Health Services (DSHS) indicates that Article 3 of the bill would be exempt from licensing all prescription wholesale drug distributors, a group which DSHS currently regulates. DSHS indicates that this would result in a loss of 3,030 licenses per year, which an average fee per year of \$400. Total loss of revenue would equal \$1,818,000 in 2006 and \$1,212,000 in each subsequent year. Due to the reduction in licensing and inspection activity, DSHS estimates that there would be a reduction of 11 FTEs: one Environmental Specialist IV, one Administrative Technician II, and nine Environmental Specialist IIIs. Savings from salaries, benefits, travel, and other operating costs associated with these FTEs would total \$631,741 per year.

Because DSHS currently regulates nonprescription wholesale drug distributors, the agency indicates that there would be no significant additional costs associated with implementing the provisions of the bill.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 537 Department of State Health Services

LBB Staff: JOB, CL, PP, LW