



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5901

by Rep. Jil Tracy - David Reis

SYNOPSIS AS INTRODUCED:

720 ILCS 646/10
720 ILCS 646/20
720 ILCS 646/25
720 ILCS 646/30
720 ILCS 646/56

Amends the Methamphetamine Control and Community Protection Act. Defines "methamphetamine precursor" to include anhydrous ammonia. Exempts from violations, possession, procurement, transportation, storage, or delivery of anhydrous ammonia by a farmer or agent of a farmer engaged in agricultural activities.

LRB095 15487 RLC 41480 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Methamphetamine Control and Community
5 Protection Act is amended by changing Sections 10, 20, 25, 30,
6 and 56 as follows:

7 (720 ILCS 646/10)

8 Sec. 10. Definitions. As used in this Act:

9 "Anhydrous ammonia" has the meaning provided in subsection
10 (d) of Section 3 of the Illinois Fertilizer Act of 1961.

11 "Anhydrous ammonia equipment" means all items used to
12 store, hold, contain, handle, transfer, transport, or apply
13 anhydrous ammonia for lawful purposes.

14 "Booby trap" means any device designed to cause physical
15 injury when triggered by an act of a person approaching,
16 entering, or moving through a structure, a vehicle, or any
17 location where methamphetamine has been manufactured, is being
18 manufactured, or is intended to be manufactured.

19 "Deliver" or "delivery" has the meaning provided in
20 subsection (h) of Section 102 of the Illinois Controlled
21 Substances Act.

22 "Director" means the Director of State Police or the
23 Director's designated agents.

1 "Dispose" or "disposal" means to abandon, discharge,
2 release, deposit, inject, dump, spill, leak, or place
3 methamphetamine waste onto or into any land, water, or well of
4 any type so that the waste has the potential to enter the
5 environment, be emitted into the air, or be discharged into the
6 soil or any waters, including groundwater.

7 "Emergency response" means the act of collecting evidence,
8 securing a methamphetamine laboratory site, methamphetamine
9 waste site or other methamphetamine-related site and cleaning
10 up the site, whether these actions are performed by public
11 entities or private contractors paid by public entities.

12 "Emergency service provider" means a local, State, or
13 federal peace officer, firefighter, emergency medical
14 technician-ambulance, emergency medical
15 technician-intermediate, emergency medical
16 technician-paramedic, ambulance driver, or other medical or
17 first aid personnel rendering aid, or any agent or designee of
18 the foregoing.

19 "Finished methamphetamine" means methamphetamine in a form
20 commonly used for personal consumption.

21 "Firearm" has the meaning provided in Section 1.1 of the
22 Firearm Owners Identification Card Act.

23 "Manufacture" means to produce, prepare, compound,
24 convert, process, synthesize, concentrate, purify, separate,
25 extract, or package any methamphetamine, methamphetamine
26 precursor, methamphetamine manufacturing catalyst,

1 methamphetamine manufacturing reagent, methamphetamine
2 manufacturing solvent, or any substance containing any of the
3 foregoing.

4 "Methamphetamine" means the chemical methamphetamine (a
5 Schedule II controlled substance under the Illinois Controlled
6 Substances Act) or any salt, optical isomer, salt of optical
7 isomer, or analog thereof, with the exception of
8 3,4-Methylenedioxymethamphetamine (MDMA) or any other
9 scheduled substance with a separate listing under the Illinois
10 Controlled Substances Act.

11 "Methamphetamine manufacturing catalyst" means any
12 substance that has been used, is being used, or is intended to
13 be used to activate, accelerate, extend, or improve a chemical
14 reaction involved in the manufacture of methamphetamine.

15 "Methamphetamine manufacturing environment" means a
16 structure or vehicle in which:

17 (1) methamphetamine is being or has been manufactured;

18 (2) chemicals that are being used, have been used, or
19 are intended to be used to manufacture methamphetamine are
20 stored;

21 (3) methamphetamine manufacturing materials that have
22 been used to manufacture methamphetamine are stored; or

23 (4) methamphetamine manufacturing waste is stored.

24 "Methamphetamine manufacturing material" means any
25 methamphetamine precursor, substance containing any
26 methamphetamine precursor, methamphetamine manufacturing

1 catalyst, substance containing any methamphetamine
2 manufacturing catalyst, methamphetamine manufacturing reagent,
3 substance containing any methamphetamine manufacturing
4 reagent, methamphetamine manufacturing solvent, substance
5 containing any methamphetamine manufacturing solvent, or any
6 other chemical, substance, ingredient, equipment, apparatus,
7 or item that is being used, has been used, or is intended to be
8 used in the manufacture of methamphetamine.

9 "Methamphetamine manufacturing reagent" means any
10 substance other than a methamphetamine manufacturing catalyst
11 that has been used, is being used, or is intended to be used to
12 react with and chemically alter any methamphetamine precursor.

13 "Methamphetamine manufacturing solvent" means any
14 substance that has been used, is being used, or is intended to
15 be used as a medium in which any methamphetamine precursor,
16 methamphetamine manufacturing catalyst, methamphetamine
17 manufacturing reagent, or any substance containing any of the
18 foregoing is dissolved, diluted, or washed during any part of
19 the methamphetamine manufacturing process.

20 "Methamphetamine manufacturing waste" means any chemical,
21 substance, ingredient, equipment, apparatus, or item that is
22 left over from, results from, or is produced by the process of
23 manufacturing methamphetamine, other than finished
24 methamphetamine.

25 "Methamphetamine precursor" means anhydrous ammonia,
26 ephedrine, pseudoephedrine, benzyl methyl ketone, methyl

1 benzyl ketone, phenylacetone, phenyl-2-propanone, P2P, or any
2 salt, optical isomer, or salt of an optical isomer of any of
3 these chemicals.

4 "Multi-unit dwelling" means a unified structure used or
5 intended for use as a habitation, home, or residence that
6 contains 2 or more condominiums, apartments, hotel rooms, motel
7 rooms, or other living units.

8 "Package" means an item marked for retail sale that is not
9 designed to be further broken down or subdivided for the
10 purpose of retail sale.

11 "Participate" or "participation" in the manufacture of
12 methamphetamine means to produce, prepare, compound, convert,
13 process, synthesize, concentrate, purify, separate, extract,
14 or package any methamphetamine, methamphetamine precursor,
15 methamphetamine manufacturing catalyst, methamphetamine
16 manufacturing reagent, methamphetamine manufacturing solvent,
17 or any substance containing any of the foregoing, or to assist
18 in any of these actions, or to attempt to take any of these
19 actions, regardless of whether this action or these actions
20 result in the production of finished methamphetamine.

21 "Person with a disability" means a person who suffers from
22 a permanent physical or mental impairment resulting from
23 disease, injury, functional disorder, or congenital condition
24 which renders the person incapable of adequately providing for
25 his or her own health and personal care.

26 "Procure" means to purchase, steal, gather, or otherwise

1 obtain, by legal or illegal means, or to cause another to take
2 such action.

3 "Second or subsequent offense" means an offense under this
4 Act committed by an offender who previously committed an
5 offense under this Act, the Illinois Controlled Substances Act,
6 the Cannabis Control Act, or another Act of this State, another
7 state, or the United States relating to methamphetamine,
8 cannabis, or any other controlled substance.

9 "Standard dosage form", as used in relation to any
10 methamphetamine precursor, means that the methamphetamine
11 precursor is contained in a pill, tablet, capsule, caplet, gel
12 cap, or liquid cap that has been manufactured by a lawful
13 entity and contains a standard quantity of methamphetamine
14 precursor.

15 "Unauthorized container", as used in relation to anhydrous
16 ammonia, means any container that is not designed for the
17 specific and sole purpose of holding, storing, transporting, or
18 applying anhydrous ammonia. "Unauthorized container" includes,
19 but is not limited to, any propane tank, fire extinguisher,
20 oxygen cylinder, gasoline can, food or beverage cooler, or
21 compressed gas cylinder used in dispensing fountain drinks.
22 "Unauthorized container" does not encompass anhydrous ammonia
23 manufacturing plants, refrigeration systems where anhydrous
24 ammonia is used solely as a refrigerant, anhydrous ammonia
25 transportation pipelines, anhydrous ammonia tankers, or
26 anhydrous ammonia barges.

1 (Source: P.A. 94-556, eff. 9-11-05.)

2 (720 ILCS 646/20)

3 Sec. 20. Methamphetamine precursor.

4 (a) Methamphetamine precursor or substance containing any
5 methamphetamine precursor in standard dosage form.

6 (1) It is unlawful to knowingly possess, procure,
7 transport, store, or deliver any methamphetamine precursor
8 or substance containing any methamphetamine precursor in
9 standard dosage form with the intent that it be used to
10 manufacture methamphetamine or a substance containing
11 methamphetamine.

12 (2) Except as otherwise provided in subsection (b-5), a
13 ~~A~~ person who violates paragraph (1) of this subsection (a)
14 is subject to the following penalties:

15 (A) A person who possesses, procures, transports,
16 stores, or delivers less than 15 grams of
17 methamphetamine precursor or substance containing any
18 methamphetamine precursor is guilty of a Class 2
19 felony.

20 (B) A person who possesses, procures, transports,
21 stores, or delivers 15 or more grams but less than 30
22 grams of methamphetamine precursor or substance
23 containing any methamphetamine precursor is guilty of
24 a Class 1 felony.

25 (C) A person who possesses, procures, transports,

1 stores, or delivers 30 or more grams but less than 150
2 grams of methamphetamine precursor or substance
3 containing any methamphetamine precursor is guilty of
4 a Class X felony, subject to a term of imprisonment of
5 not less than 6 years and not more than 30 years, and
6 subject to a fine not to exceed \$100,000.

7 (D) A person who possesses, procures, transports,
8 stores, or delivers 150 or more grams but less than 500
9 grams of methamphetamine precursor or substance
10 containing any methamphetamine precursor is guilty of
11 a Class X felony, subject to a term of imprisonment of
12 not less than 8 years and not more than 40 years, and
13 subject to a fine not to exceed \$200,000.

14 (E) A person who possesses, procures, transports,
15 stores, or delivers 500 or more grams of
16 methamphetamine precursor or substance containing any
17 methamphetamine precursor is guilty of a Class X
18 felony, subject to a term of imprisonment of not less
19 than 10 years and not more than 50 years, and subject
20 to a fine not to exceed \$300,000.

21 (b) Methamphetamine precursor or substance containing any
22 methamphetamine precursor in any form other than a standard
23 dosage form.

24 (1) It is unlawful to knowingly possess, procure,
25 transport, store, or deliver any methamphetamine precursor
26 or substance containing any methamphetamine precursor in

1 any form other than a standard dosage form with the intent
2 that it be used to manufacture methamphetamine or a
3 substance containing methamphetamine.

4 (2) Except as otherwise provided in subsection (b-5), a
5 ~~A~~ person who violates paragraph (1) of this subsection (b)
6 is subject to the following penalties:

7 (A) A person who violates paragraph (1) of this
8 subsection (b) with the intent that less than 10 grams
9 of methamphetamine or a substance containing
10 methamphetamine be manufactured is guilty of a Class 2
11 felony.

12 (B) A person who violates paragraph (1) of this
13 subsection (b) with the intent that 10 or more grams
14 but less than 20 grams of methamphetamine or a
15 substance containing methamphetamine be manufactured
16 is guilty of a Class 1 felony.

17 (C) A person who violates paragraph (1) of this
18 subsection (b) with the intent that 20 or more grams
19 but less than 100 grams of methamphetamine or a
20 substance containing methamphetamine be manufactured
21 is guilty of a Class X felony, subject to a term of
22 imprisonment of not less than 6 years and not more than
23 30 years, and subject to a fine not to exceed \$100,000.

24 (D) A person who violates paragraph (1) of this
25 subsection (b) with the intent that 100 or more grams
26 but less than 350 grams of methamphetamine or a

1 substance containing methamphetamine be manufactured
2 is guilty of a Class X felony, subject to a term of
3 imprisonment of not less than 8 years and not more than
4 40 years, and subject to a fine not to exceed \$200,000.

5 (E) A person who violates paragraph (1) of this
6 subsection (b) with the intent that 350 or more grams
7 of methamphetamine or a substance containing
8 methamphetamine be manufactured is guilty of a Class X
9 felony, subject to a term of imprisonment of not less
10 than 10 years and not more than 50 years, and subject
11 to a fine not to exceed \$300,000.

12 (b-5) A person who violates paragraph (1) of subsection (b)
13 if the methamphetamine precursor is anhydrous ammonia is guilty
14 of a Class 1 felony. A person who violates paragraph (1) of
15 subsection (b) if the methamphetamine precursor is anhydrous
16 ammonia is guilty of a Class X felony, subject to a term of
17 imprisonment of not less than 6 years and not more than 30
18 years, and subject to a fine not to exceed \$100,000 if the
19 following aggravating factors are present:

20 (A) the person knowingly commits a violation in a
21 multi-unit dwelling;

22 (B) the person knowingly commits a violation in a
23 structure or vehicle where a child under the age of 18, or
24 a person with a disability, or a person who is 60 years of
25 age or older who is incapable of adequately providing for
26 his or her own health and personal care resides, is

1 present, or is endangered by the anhydrous ammonia;

2 (C) the person's possession, procurement,
3 transportation, storage, or delivery of anhydrous ammonia
4 is a contributing cause of the death, serious bodily
5 injury, disability, or disfigurement of another person; or

6 (D) the person's possession, procurement,
7 transportation, storage, or delivery of anhydrous ammonia
8 is a contributing cause of a fire or explosion that damages
9 property belonging to another person.

10 This Section does not apply to the possession, procurement,
11 transportation, storage, or delivery of anhydrous ammonia by a
12 farmer or agent of a farmer engaged in agricultural activities.

13 (c) Rule of evidence. The presence of any methamphetamine
14 precursor in a sealed, factory imprinted container, including,
15 but not limited to, a bottle, box, package, or blister pack, at
16 the time of seizure by law enforcement, is prima facie evidence
17 that the methamphetamine precursor located within the
18 container is in fact the material so described and in the
19 amount listed on the container. The factory imprinted container
20 is admissible for a violation of this Act for purposes of
21 proving the contents of the container.

22 (Source: P.A. 94-556, eff. 9-11-05; 94-830, eff. 6-5-06.)

23 (720 ILCS 646/25)

24 Sec. 25. Anhydrous ammonia.

25 (a) (Blank) Possession, procurement, transportation,

1 ~~storage, or delivery of anhydrous ammonia with the intent that~~
2 ~~it be used to manufacture methamphetamine.~~

3 ~~(1) It is unlawful to knowingly engage in the~~
4 ~~possession, procurement, transportation, storage, or~~
5 ~~delivery of anhydrous ammonia or to attempt to engage in~~
6 ~~any of these activities or to assist another in engaging in~~
7 ~~any of these activities with the intent that the anhydrous~~
8 ~~ammonia be used to manufacture methamphetamine.~~

9 ~~(2) A person who violates paragraph (1) of this~~
10 ~~subsection (a) is guilty of a Class 1 felony.~~

11 (b) (Blank) ~~Aggravated possession, procurement,~~
12 ~~transportation, storage, or delivery of anhydrous ammonia with~~
13 ~~the intent that it be used to manufacture methamphetamine.~~

14 ~~(1) It is unlawful to knowingly engage in the~~
15 ~~aggravated possession, procurement, transportation,~~
16 ~~storage, or delivery of anhydrous ammonia with the intent~~
17 ~~that it be used to manufacture methamphetamine. A person~~
18 ~~commits this offense when the person engages in the~~
19 ~~possession, procurement, transportation, storage, or~~
20 ~~delivery of anhydrous ammonia or attempts to engage in any~~
21 ~~of these activities or assists another in engaging in any~~
22 ~~of these activities with the intent that the anhydrous~~
23 ~~ammonia be used to manufacture methamphetamine and:~~

24 ~~(A) the person knowingly does so in a multi-unit~~
25 ~~dwelling;~~

26 ~~(B) the person knowingly does so in a structure or~~

1 ~~vehicle where a child under the age of 18, or a person~~
2 ~~with a disability, or a person who is 60 years of age~~
3 ~~or older who is incapable of adequately providing for~~
4 ~~his or her own health and personal care resides, is~~
5 ~~present, or is endangered by the anhydrous ammonia;~~

6 ~~(C) the person's possession, procurement,~~
7 ~~transportation, storage, or delivery of anhydrous~~
8 ~~ammonia is a contributing cause of the death, serious~~
9 ~~bodily injury, disability, or disfigurement of another~~
10 ~~person; or~~

11 ~~(D) the person's possession, procurement,~~
12 ~~transportation, storage, or delivery of anhydrous~~
13 ~~ammonia is a contributing cause of a fire or explosion~~
14 ~~that damages property belonging to another person.~~

15 ~~(2) A person who violates paragraph (1) of this~~
16 ~~subsection (b) is guilty of a Class X felony, subject to a~~
17 ~~term of imprisonment of not less than 6 years and not more~~
18 ~~than 30 years, and subject to a fine not to exceed~~
19 ~~\$100,000.~~

20 (c) Possession, procurement, transportation, storage, or
21 delivery of anhydrous ammonia in an unauthorized container.

22 (1) It is unlawful to knowingly possess, procure,
23 transport, store, or deliver anhydrous ammonia in an
24 unauthorized container.

25 (1.5) It is unlawful to attempt to possess, procure,
26 transport, store, or deliver anhydrous ammonia in an

1 unauthorized container.

2 (2) A person who violates paragraph (1) of this
3 subsection (c) is guilty of a Class 3 felony. A person who
4 violates paragraph (1.5) of this subsection (c) is guilty
5 of a Class 4 felony.

6 (3) Affirmative defense. It is an affirmative defense
7 that the person charged possessed, procured, transported,
8 stored, or delivered anhydrous ammonia in a manner that
9 substantially complied with the rules governing anhydrous
10 ammonia equipment found in 8 Illinois Administrative Code
11 Section 215, in 92 Illinois Administrative Code Sections
12 171 through 180, or in any provision of the Code of Federal
13 Regulations incorporated by reference into these Sections
14 of the Illinois Administrative Code.

15 (d) Tampering with anhydrous ammonia equipment.

16 (1) It is unlawful to knowingly tamper with anhydrous
17 ammonia equipment. A person tampers with anhydrous ammonia
18 equipment when, without authorization from the lawful
19 owner, the person:

20 (A) removes or attempts to remove anhydrous
21 ammonia from the anhydrous ammonia equipment used by
22 the lawful owner;

23 (B) damages or attempts to damage the anhydrous
24 ammonia equipment used by the lawful owner; or

25 (C) vents or attempts to vent anhydrous ammonia
26 into the environment.

1 (2) A person who violates paragraph (1) of this
2 subsection (d) is guilty of a Class 3 felony.

3 (Source: P.A. 94-556, eff. 9-11-05; 94-830, eff. 6-5-06;
4 95-690, eff. 1-1-08.)

5 (720 ILCS 646/30)

6 Sec. 30. Methamphetamine manufacturing material.

7 (a) It is unlawful to knowingly engage in the possession,
8 procurement, transportation, storage, or delivery of any
9 methamphetamine manufacturing material, other than a
10 methamphetamine precursor or ~~7~~ substance containing a
11 methamphetamine precursor, ~~or anhydrous ammonia,~~ with the
12 intent that it be used to manufacture methamphetamine.

13 (b) A person who violates subsection (a) of this Section is
14 guilty of a Class 2 felony.

15 (Source: P.A. 94-556, eff. 9-11-05; 94-830, eff. 6-5-06.)

16 (720 ILCS 646/56)

17 Sec. 56. Methamphetamine trafficking.

18 (a) Except for purposes as authorized by this Act, any
19 person who knowingly brings, or causes to be brought, into this
20 State methamphetamine, ~~anhydrous ammonia,~~ or a methamphetamine
21 precursor for the purpose of manufacture or delivery of
22 methamphetamine or with the intent to manufacture or deliver
23 methamphetamine is guilty of methamphetamine trafficking.

24 (b) A person convicted of methamphetamine trafficking

1 shall be sentenced to a term of imprisonment of not less than
2 twice the minimum term and not more than twice the maximum term
3 of imprisonment based upon the amount of methamphetamine
4 brought or caused to be brought into this State, as provided in
5 subsection (a) of Section 55 of this Act.

6 (c) A person convicted of methamphetamine trafficking
7 based upon a methamphetamine precursor shall be sentenced to a
8 term of imprisonment of not less than twice the minimum term
9 and not more than twice the maximum term of imprisonment based
10 upon the amount of methamphetamine precursor provided in
11 subsection (a) or (b) of Section 20 of this Act brought or
12 caused to be brought into this State.

13 (d) (Blank) ~~A person convicted of methamphetamine~~
14 ~~trafficking based upon anhydrous ammonia under paragraph (1) of~~
15 ~~subsection (a) of Section 25 of this Act shall be sentenced to~~
16 ~~a term of imprisonment of not less than twice the minimum term~~
17 ~~and not more than twice the maximum term of imprisonment~~
18 ~~provided in paragraph (1) of subsection (a) of Section 25 of~~
19 ~~this Act.~~

20 (Source: P.A. 94-830, eff. 6-5-06.)