

**Department of Legislative Services**  
Maryland General Assembly  
2006 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 259

(Senator Gladden)

Judicial Proceedings

Judiciary

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**Crimes - Controlled Dangerous Substances - Criminal Penalties**

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This bill establishes that a person who manufactures, distributes, possesses with intent to distribute, or dispenses a controlled dangerous substance is liable for the costs of cleaning up or remediating laboratories or other facilities operated for the unlawful manufacture of the substance.

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**Fiscal Summary**

**State Effect:** None.

**Local Effect:** None.

**Small Business Effect:** Potential meaningful positive impact on some small businesses (including motel and apartment building owners), but only to the extent that criminal proceedings are successful in actually securing resources to meet clean up costs on affected sites from persons convicted found liable for those costs.

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**Analysis**

**Current Law:** A person who manufactures, distributes, or dispenses selected Schedule I or II controlled dangerous substances is guilty of a felony and subject to maximum penalties of imprisonment for 20 years and/or a fine of \$20,000. A person convicted under this prohibition for the selected substances, including being involved in a conspiracy to commit the crime(s), must be sentenced to a nonsuspendable, nonparolable minimum sentence of 10 years and a fine of up to \$100,000 if previously convicted once: (1) under prohibitions regarding narcotics; (2) of conspiracy to commit an included crime

or a narcotics violation; (3) a similar crime under the laws of another state or the U.S.; or (4) any combination of these crimes.

A substance is listed in Schedule II if the substance includes a material, compound, mixture, or preparation that contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system: (1) amphetamine, its salts, optical isomers, and salts of its optical isomers; (2) phenmetrazine and its salts; (3) a substance that contains any methamphetamine, including salts, optical isomers, and salts of its optical isomers, in combination with one or more active nonnarcotic ingredients in recognized therapeutic amounts; (4) methylphenidate; and (5) methamphetamine, its salts, optical isomers, and salts of optical isomers.

**Background:** Of all of the controlled dangerous substances that pose a challenge for clean up costs, the manufacturer of methamphetamines has been the most troublesome.

Methamphetamine can be produced almost anywhere – from abandoned buildings in rural areas to apartments and even cars in more populated areas. Over the counter cold medicines containing pseudoephedrine are “cooked” with reagents such as iodine and solvents such as paint thinner to make the synthetic drug. While relatively simple and inexpensive to manufacture, the production of methamphetamine is hazardous. Eighty percent of methamphetamine manufactured in the U.S. is produced in sophisticated super labs; however, makeshift “mom and pop” labs make smaller quantities under conditions that often result in toxic explosions, fires, hazardous waste dumping, and child endangerment.

To date, methamphetamine’s impact in Maryland is minimal, but surrounding areas have seen much more activity with an increasing number of methamphetamine labs seized. One methamphetamine lab was seized in Virginia in 2000 compared to 61 in 2004. The number of labs seized in West Virginia between 2000 and 2004 increased from 3 to 84 and in Pennsylvania from 8 to 63. As is true nationwide, methamphetamine users in Maryland have historically been concentrated in rural areas.

Three meth labs have been uncovered in Anne Arundel County recently. For one of them, a Millersville couple was indicted by a federal grand jury on four drug counts, including manufacturing with the intent to distribute and possession of methamphetamines. The couple’s operation was on rented property in the county and they have also been accused of operating one of the other two labs uncovered. In January 2006, two Harford County residents were sentenced to federal prison terms in connection with 2005 raids of several methamphetamine laboratories in Maryland and Pennsylvania.

The manufacturing of methamphetamine poses a significant danger to first responders. Poisonous gases are released when the highly flammable and explosive chemicals are

“cooked.” Every pound of methamphetamine produced generates five to seven pounds of toxic waste. Lab operators have dumped the toxic waste down household drains, in fields, in yards, and on rural roads. Emergency personnel require appropriate training in identifying and handling the contents of a lab as clean up of contaminated sites is critical. Some states (*e.g.*, *Kentucky*) have made methamphetamine producers civilly liable for clean up costs.

According to the U.S. Drug Enforcement Administration (DEA), when a federal, state, or local agency seizes a clandestine methamphetamine laboratory, U.S. Environmental Protection Agency regulations require that DEA ensure that all hazardous waste materials are safely removed from the site. In 1990, DEA established a Hazardous Waste Cleanup Program to address environmental concerns from the seizure of clandestine drug laboratories. This program promotes the safety of law enforcement personnel and the public by using qualified companies with specialized training and equipment to remove hazardous waste. Private contractors provide hazardous waste removal and disposal services to DEA, as well as to state and local law enforcement agencies. DEA’s Hazardous Waste Program, with the assistance of grants to state and local law enforcement, supports and funds the clean up of a majority of the laboratories seized in the United States.

Several states (such as Arkansas, California, Colorado, Minnesota, Missouri, Montana, Oklahoma, South Dakota, and Virginia) have established guidelines, protocols, or standards for the clean up of methamphetamine labs. Some states (*e.g.*, *Kentucky*) have made methamphetamine producers civilly liable for clean up costs.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - February 3, 2006  
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