

COMMITTEE BILL ANALYSIS

Bill: Senate Bill 865

Printer's No.: 976

Sponsor: Senator Gordner

Prepared by: Gregg Warner

Synopsis: This bill amends section 13.1 of The Controlled Substance, Drug, Device and Cosmetic Act (1972 Act 64) to provide a penalty for a violation of subsection (a)(4).

Summary: Section 13.1 of The Controlled Substances, Drug, Device and Cosmetic Act prohibits the possession or transportation of liquefied ammonia gas, precursors and chemicals for use in the manufacture of controlled substances, specifically methamphetamines. Generally these offenses are graded as a felony. However, subsection (a)(4) which was added in 2010 and which prohibits the possession of certain related chemicals was not included in subsection (c) which provides for the grading of most of the prohibitions. The bill references subsection (a)(4) in subsection (c). As a result a violation of subsection (a)(4) would be a felony.

Effective date

This act takes effect in 60 days.

Background: In 2010 the General Assembly passed Senate Bill 126 (2010 Act 21) amending The Controlled Substance, Drug, Device and Cosmetic Act. The legislation amended section 13.1 of the act relating to precursors for the manufacture of methamphetamines and added subsection (a)(4) which prohibits "possessing the esters, salts, optical isomers or salts of optical isomers of any of the substances under clause (3) with intent to manufacture a controlled substance." Mark Bergstrom, Executive Director of the Pennsylvania Commission on Sentencing, pointed out that subsection (c) of section 13.1 says that a person who violates subsection (a)(3) commits a felony but the legislation failed to include a penalty for a violation of new subsection (a)(4). It should logically be included in subsection (c) along with the reference to subsection (a)(3).

Grading

A felony under section 13.1 is an ungraded felony which by law is considered a third degree felony. However, subsection (c) provides a specific penalty for a violation of subsection (a)(2) or (a)(3) and, pursuant to Senate Bill 865, subsection (a)(4) providing for a sentence not to exceed seven years and a fine not to exceed \$15,000.