

HOUSE BILL REPORT

HB 1072

As Passed Legislature

Title: An act relating to controlled substances.

Brief Description: Including salts, isomers, and salts of isomers in controlled substances provisions.

Sponsors: By Representatives Lovick and Pearson.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 1/25/05, 2/3/05 [DP].

Floor Activity:

Passed House: 2/5/05, 95-0.

Passed Senate: 4/11/05, 48-0.

Passed Legislature.

Brief Summary of Bill

- Includes "salts, isomers, and salts of isomers" in the controlled substances provisions of the Uniform Controlled Substances Act.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass. Signed by 7 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kagi, Kirby and Strow.

Staff: Yvonne Walker (786-7841).

Background:

Generally, it is illegal for a person to possess various controlled substances. Under the Uniform Controlled Substances Act, the degree of restriction exercised over a controlled substance is dependent on the potential for abuse and the degree of psychic or physical dependency which may be caused by the substance. Controlled substances are placed in five different schedules to reflect the amount of control necessary, with Schedule I being the most controlled, and Schedule V being the least restricted. The penalty for violations involving a controlled substance varies depending on the schedule on which the substance is placed.

A portion of the fines imposed on those convicted of a violation of the Uniform Controlled Substances Act is deposited with the law enforcement agency having responsibility for cleanup of the sites or substances used in the manufacture of methamphetamine.

A recent Court of Appeals case, *State v. Morris* (123 Wn. App. 467), ruled that the crime of possessing or manufacturing methamphetamine does not include possession of the "salts, isomers, and salts of isomers" of methamphetamine. The defendant in the case possessed methamphetamine hydrochloride, which is a salt of methamphetamine. The court sentenced the offender to a lesser penalty (instead of a sentence for manufacturing meth) because the plain language of the statute did not cover the salts or isomers of methamphetamine. It stated that the Uniform Controlled Substances Act only covers methamphetamine in its pure form. The court relied in part on the fact that the Legislature, in other areas of the drug laws, has specifically referenced the salts and isomers of drugs.

Summary of Bill:

The Uniform Controlled Substances Act is amended to include the "salts, isomers, or salts of isomers" of controlled substances with respect to manufacturing, delivering, and possessing with intent to manufacture a controlled substance classified as a Schedule I or II narcotic drug, a controlled substance classified in Schedule IV, amphetamine, methamphetamine, ephedrine, pseudoephedrine, and pressurized ammonia gas (anhydrous ammonia).

The offense of endangerment with a controlled substance is amended to include a person who knowingly or intentionally permits a child or dependent adult to be exposed to the "salts, isomers, or salts of isomers" of methamphetamine, or ephedrine, pseudoephedrine, or anhydrous ammonia, that are being used in the manufacture of methamphetamine.

The fines imposed on those convicted of a violation of the Uniform Controlled Substances Act will continue to be deposited with the law enforcement agency having responsibility for the cleanup of sites or substances used in the manufacture of methamphetamine, including its salts, isomers, and salts of isomers.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: This bill will close a loop hole in the law. In the court case of *State v. Morris*, the courts stated that the Legislature had already said that amphetamine, salts, isomers, and salts of isomers of amphetamine and methamphetamine are already illegal in statute but they were not included in the penalty sections of the statute. This bill will not increase or create new crimes or penalties in the state. It basically states persons who are

arrested for cooking methamphetamine and because they are not using laboratory grade materials and the components of the materials they are using salts or isomers, then they will be prosecuted the same as if they came up with pure methamphetamine and amphetamine. This bill is just a clean-up bill.

Testimony Against: None.

Persons Testifying: Representative Lovick, prime sponsor; and Pam Loginsly and Tom McBride, Washington Association of Prosecuting Attorneys.

Persons Signed In To Testify But Not Testifying: None.