

LFC Requester:	AGO EXEC OFFICE
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**AGENCY BILL ANALYSIS
2013 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

And

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date 1-23-13
Bill No: HB 146--305

Sponsor: Rep. Antonio Maestas **Reviewing** Attorney General's Office
Short Sale of Methamphetamine **Person Writing** MBaber
Title: Precursors **Phone:** 827-6650 **Email** mbaber@nmagt.gov

SECTION II: FISCAL IMPACT **FOR LFC OFFICIAL PURPOSES******
AGO STAFF SHOULD LEAVE SHAGED AREAS BLANK

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY13	FY14		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Opinion Letter. This is a staff analysis in response to the agency’s committee’s or legislator’s request.

BILL SUMMARY

HB 146 restricts the amount of purchase of methamphetamine precursors., ie ephedrine and pseudoephedrine. The intent of the bill is to restrict access to drugs used to manufacture methamphetamine, the use of which is considered by many to be an epidemic.

The bill also requires retailers of nonprescription products containing precursors to use a real-time stop sale system.

FISCAL IMPLICATIONS WITH ENACTING THIS BILL

Unknown. Though section (L)(1) states that installation, operation and maintenance is free, there may be expenses associated with keeping the logs. There may be increased expenses to law enforcement to maintain and review data bases for possible criminal prosecution.

SIGNIFICANT LEGAL ISSUES

This bill criminalizes the actions of selling and/or purchasing more than 3.6 grams per day or 30 grams per 30 day period. The offense is designated a misdemeanor with a fine of no more than \$1000. This section does not apply to persons who purchase the precursors with a valid prescription.

Note that ephedrine and pseudoephedrine are already subject to regulation by the board of pharmacy. NMSA 30-31B-3

PERFORMANCE IMPLICATIONS WITH ENACTING THIS BILL

Beginning January 1, 2014 retailers, before completing the sale, shall submit the information required in section (1) (C) to the board of pharmacy.

If a retailer is unable to comply with the electronic real time stop-sale requirement shall maintain a written log. All logs, electronic or written, are to be forwarded weekly to the appropriate law enforcement agency

ADMINISTRATIVE IMPLICATIONS WITH ENACTING THIS BILL

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP WITH BILLS INTRODUCED THIS SESSION

This bill is similar to 2012 House Bill 296 (Rep. Rhonda King) which introduced an amendment to the existing Drug Precursor Act. NMSA 30-31B-1 et. seq. Penalties in the 2012 bill were fourth degree felonies. The bill did not pass.

TECHNICAL ISSUES OR DRAFTING ERROR

It is not clear which state agency is “the appropriate state agency” other than the pharmacy board.

OTHER SUBSTANTIVE LEGAL ISSUES

State laws regarding sale of pseudoephedrine may have been preempted by federal law, Combat Methamphetamine Epidemic Act of 2005. (effective March 2006)

ALTERNATIVES TO ENACTING THIS BILL

Status quo

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

This bill is intended to prohibit activity, excess sales and purchase of regulated substances, which in turn are used to manufacture methamphetamine, the use of which and consequential social problems are a national epidemic.

AMENDMENTS NEEDED TO IMPROVE THIS BILL