



Reprinted
April 6, 1999

ENGROSSED SENATE BILL No. 292

DIGEST OF SB292 (Updated April 5, 1999 3:15 pm - DI 84)

Citations Affected: IC 35-48.

Synopsis: Manufacture of certain controlled substances. Requires a court to order restitution to cover the costs of an environmental cleanup incurred by a law enforcement agency as a result of conviction of certain offenses related to controlled substances. Provides that a person who possesses chemical reagents or precursors for the manufacture of methcathinone, methamphetamine, amphetamine, or phentermine commits a Class D felony.

Effective: July 1, 1999.

**Miller, Meeks R, Meeks C, Wyss,
Howard**

(HOUSE SPONSORS — MAHERN, BUELL, STEELE, DVORAK)

January 7, 1999, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.

January 28, 1999, amended, reported favorably — Do Pass.

February 1, 1999, read second time, amended, ordered engrossed.

February 2, 1999, engrossed. Read third time, passed. Yeas 47, nays 0.

HOUSE ACTION

March 3, 1999, read first time and referred to Committee on Courts and Criminal Code.

March 25, 1999, amended, reported — Do Pass.

March 29, 1999, read second time, ordered engrossed. Engrossed.

April 5, 1999, read third time, referred to Committee of One; amended; passed. Yeas 97, nays 0.

ES 292—LS 7432/DI 88+



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First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

ENGROSSED SENATE BILL No. 292

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 35-48-4-4.6 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4.6. (a) A person who
3 knowingly or intentionally:
4 (1) manufactures;
5 (2) finances the manufacture of;
6 (3) advertises;
7 (4) distributes; or
8 (5) possesses with intent to manufacture, finance the manufacture
9 of, advertise, or distribute;
10 a substance described in section 4.5 of this chapter commits a Class C
11 felony.
12 (b) A person who knowingly or intentionally possesses a substance
13 described in section 4.5 of this chapter commits a Class C
14 misdemeanor. However, the offense is a Class A misdemeanor if the
15 person has a previous conviction under this section.
16 (c) In any prosecution brought under this section it is not a defense
17 that the person believed the substance actually was a controlled

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1 substance.

2 (d) This section does not apply to the following:

3 (1) The manufacture, financing the manufacture of, processing,
4 packaging, distribution, or sale of noncontrolled substances to
5 licensed medical practitioners for use as placebos in professional
6 practice or research.

7 (2) Persons acting in the course and legitimate scope of their
8 employment as law enforcement officers.

9 (3) The retention of production samples of noncontrolled
10 substances produced before September 1, 1986, where such
11 samples are required by federal law.

12 (e) **In addition to any other penalty imposed for conviction of an**
13 **offense under this section, a court shall order restitution pursuant**
14 **to IC 35-50-5-3 to cover the costs of an environmental cleanup**
15 **incurred by a law enforcement agency or other person as a result**
16 **of the offense.**

17 (f) **The amount collected under subsection (e) shall be used to**
18 **reimburse the law enforcement agency that assumed the costs**
19 **associated with the environmental cleanup described in subsection**
20 **(e).**

21 SECTION 2. IC 35-48-4-14.5 IS ADDED TO THE INDIANA
22 CODE AS A NEW SECTION TO READ AS FOLLOWS
23 [EFFECTIVE JULY 1, 1999]: **Sec. 14.5. (a) As used in this section,**
24 **"chemical reagents or precursors" refers to one (1) or more of the**
25 **following:**

26 (1) **Ephedrine.**

27 (2) **Pseudoephedrine.**

28 (3) **Phenylpropanolamine.**

29 (4) **The salts, isomers, and salts of isomers of a substance**
30 **identified in subdivisions (1) through (3).**

31 (5) **Anhydrous ammonia.**

32 (6) **Organic solvents.**

33 (7) **Hydrochloric acid.**

34 (8) **Lithium metal.**

35 (9) **Sodium metal.**

36 (10) **Ether.**

37 (11) **Sulfuric acid.**

38 (12) **Red phosphorous.**

39 (13) **Iodine.**

40 (14) **Sodium hydroxide (lye).**

41 (15) **Potassium dichromate.**

42 (16) **Sodium dichromate.**



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- 1 **(17) Potassium permanganate.**
- 2 **(18) Chromium trioxide.**
- 3 **(b) A person who possesses two (2) or more chemical reagents**
- 4 **or precursors with the intent to manufacture:**
- 5 **(1) Methcathinone, a schedule I controlled substance under**
- 6 **IC 35-48-2-4;**
- 7 **(2) Methamphetamine, a schedule II controlled substance**
- 8 **under IC 35-48-2-6;**
- 9 **(3) Amphetamine, a schedule II controlled substance under**
- 10 **IC 35-48-2-6; or**
- 11 **(4) Phentermine, a schedule IV controlled substance under**
- 12 **IC 35-48-2-10;**
- 13 **commits a Class D felony.**

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SENATE MOTION

Mr. President: I move that Senator Meeks R be added as second author and Senator Meeks C be added as coauthor of Senate Bill 292.

MILLER

SENATE MOTION

Mr. President: I move that Senators Wyss and Howard be added as coauthors of Senate Bill 292.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Corrections, Criminal and Civil Procedures, to which was referred Senate Bill No. 292, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 12, delete "fee" and insert "**penalty**".

Page 2, line 13, delete "a fee" and insert "**the actual cost of any environmental cleanup**".

Page 2, line 16, delete "fee" and insert "**amount**".

and when so amended that said bill do pass.

(Reference is to SB 292 as introduced.)

MEEKS R, Chairperson

Committee Vote: Yeas 11, Nays 0.

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SENATE MOTION

Mr. President: I move that Senate Bill 292 be amended to read as follows:

Page 2, line 23, delete "A person who possesses".

Page 2, delete lines 24 through 25 and insert "**(a) As used in this section, "reagents or precursors" refers to anhydrous ammonia, ephedrine, salts of ephedrine, phenylpropanolamine, salts of phenylpropanolamine, pseudoephedrine, salts of pseudoephedrine, lithium batteries, sodium metal, sodium, ether, organic solvents, sulfuric acid, red phosphorous, iodine, sodium, potassium dichromate, optical isomers, or salts of optical isomers.**

(b) A person who possesses two (2) or more chemical reagents or precursors that are used to make methcathinone, methamphetamine, amphetamine, phentermine with".

Page 2, line 35, delete "possession of ephedrine,".

(Reference is to SB 292 as printed January 29, 1999.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 292, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 13, delete "assess the actual cost of any" and insert "**order restitution pursuant to IC 35-50-5-3**".

Page 2, line 14, delete "environmental cleanup against the defendant".

Page 2, line 15, after "agency" insert "**or other person**".

Page 2, line 24, after " " " and before "reagents" insert "**chemical**".

Page 2, line 24, delete "anhydrous ammonia, ephedrine," and insert "**one (1) or more of the following:**

- (1) Ephedrine.
- (2) Pseudoephedrine.
- (3) Phenylpropanolamine.
- (4) The salts, isomers, and salts of isomers of a substance identified in subdivisions (1) through (3).
- (5) Anhydrous ammonia.
- (6) Organic solvents.
- (7) Hydrochloric acid.
- (8) Lithium metal.
- (9) Sodium metal.
- (10) Ether.
- (11) Sulfuric acid.
- (12) Red phosphorous.
- (13) Iodine.
- (14) Sodium hydroxide (lye).
- (15) Potassium dichromate.
- (16) Sodium dichromate.
- (17) Potassium Permanganate.
- (18) Chromium trioxide."

Page 2, delete lines 25 through 29.

Page 2, line 31, delete "that are used to make methcathinone,".

Page 2, line 32, delete "methamphetamine, amphetamine, phentermine with" and insert "**with the**".

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and when so amended that said bill do pass.

(Reference is to SB 292 as reprinted February 2, 1999.)

DVORAK, Chair

Committee Vote: yeas 13, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 292 be recommitted to a Committee of One, its author, with specific instructions to amend as follows:

Page 3, line 1, delete "Permaganate" and insert "**permanganate**".

(Reference is to ESB 292 as printed March 26, 1999.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred Engrossed Senate Bill 292, begs leave to report that said bill has been amended as directed.

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