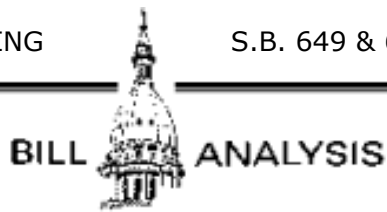




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Senate Bill 649 (as introduced 8-13-03)  
Senate Bill 698 (as introduced 9-16-03)  
Sponsor: Senator Patricia L. Birkholz (Senate Bill 649)  
Senator Michael D. Bishop (Senate Bill 698)  
Committee: Judiciary

Date Completed: 10-13-03

### **CONTENT**

**Senate Bills 649 and 698 would amend the Public Health Code and the Code of Criminal Procedure, respectively, to prescribe a maximum penalty of 20 years and/or \$25,000 for owning or using a vehicle, building, or place, owning or possessing chemical or laboratory equipment, or providing any chemical or laboratory equipment to another in order to manufacture methamphetamine; and to include those penalties in the sentencing guidelines.** Senate Bill 698 is tie-barred to Senate Bill 649.

#### **Senate Bill 649**

The Public Health Code, under provisions enacted by Public Act 314 of 2000, prohibits a person from doing any of the following in violation of Section 7401 or Section 7402 of the Code:

- Owning, possessing, or using a vehicle, building, structure, place, or area that he or she knows or has reason to know is to be used as a location to manufacture a controlled substance or a counterfeit substance or controlled substance analogue.
- Owning or possessing any chemical or any laboratory equipment that the person knows or has reason to know is to be used for the purpose of manufacturing a controlled substance or a counterfeit substance or controlled substance analogue.
- Providing any chemical or laboratory equipment to another person knowing or having reason to know that the other person intends to use that chemical or equipment for the purpose of manufacturing a controlled substance or a counterfeit substance or controlled substance analogue.

(Section 7401 prohibits a person from manufacturing, possessing with intent to deliver, creating, or delivering a controlled substance. Section 7402 prohibits a person from creating, manufacturing, delivering, or possessing with intent to deliver a counterfeit substance or a controlled substance analogue intended for human consumption.)

A person who violates any of these provisions is guilty of a felony, punishable by imprisonment for up to 10 years, a fine of up to \$100,000, or both. The penalty is imprisonment for up to 20 years, a maximum fine of \$100,000, or both, for the following violations:

- A violation committed in the presence of a minor.
- A violation that involves the unlawful generation, treatment, storage, or disposal of a hazardous waste.
- A violation that occurs within 500 feet of a residence, business establishment, school property, or church or other house of worship.

If a violation involves the possession, placement, or use of a firearm, or any other device designed or intended to be used to injure another person, it is punishable by imprisonment for up to 25 years, a fine of up to \$100,000, or both.

Further, a person 18 years old or older who commits a violation within 1,000 feet of a public or private park is subject to an additional term of imprisonment of up to two years.

Under Senate Bill 649, a violation that involved or was intended to involve manufacturing a substance that contained any quantity of methamphetamine, including its salts, stereoisomers, and salts of stereoisomers, would be punishable by up to 20 years' imprisonment, a maximum fine of \$25,000, or both.

### **Senate Bill 698**

Under the bill, operating or maintaining a controlled substance laboratory involving methamphetamine would be listed in the sentencing guidelines as a Class B controlled substances felony with a statutory maximum penalty of 20 years' imprisonment.

MCL 333.7401c (S.B. 649)  
777.13m (S.B. 698)

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

Senate Bills 649 and 698 would have an indeterminate fiscal impact on State and local government.

There are no data to indicate how many new offenders would be convicted or how many offenders who are currently convicted of other substance abuse offenses would be convicted instead of operating or maintaining a controlled substance laboratory involving methamphetamine. Offenders would receive a sentencing guidelines minimum sentence range from 0-18 months to 117-160 months. Local units of government would incur the cost of incarceration in a local facility, which varies by county. The State would incur the cost of felony probation at an average annual cost of \$1,750, as well as the cost of incarceration in a State facility at an average annual cost of \$27,000. For each offender who was convicted, was sent to prison, and received the longest allowable minimum sentence, it would cost the State approximately \$360,000.

Public libraries would benefit from any additional penal fine revenue raised due to the proposed changes.

Fiscal Analyst: Bethany Wicksall

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.