

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NOS. 89 & 37
91ST GENERAL ASSEMBLY

Reported from the Committee on Criminal Law, May 15, 2001, with recommendation that the House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill Nos. 89 & 37 Do Pass.

TED WEDEL, Chief Clerk

0301L.07C

AN ACT

To repeal sections 195.010, 195.235, 195.246 and 570.030, RSMo 2000, and to enact in lieu thereof eleven new sections relating to the manufacture of methamphetamine, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 195.010, 195.235, 195.246 and 570.030, RSMo 2000, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 195.010, 195.235, 195.246, 195.417, 195.418, 195.515, 441.236, 442.606, 537.297, 570.030 and 578.154, to read as follows:

195.010. The following words and phrases as used in sections 195.005 to 195.425, unless the context otherwise requires, mean:

(1) "Addict", a person who habitually uses one or more controlled substances to such an extent as to create a tolerance for such drugs, and who does not have a medical need for such drugs, or who is so far addicted to the use of such drugs as to have lost the power of self-control with reference to his addiction;

(2) "Administer", to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

(a) A practitioner (or, in his presence, by his authorized agent); or

(b) The patient or research subject at the direction and in the presence of the practitioner;

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

(3) "Agent", an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. The term does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman while acting in the usual and lawful course of the carrier's or warehouseman's business;

(4) "Attorney for the state", any prosecuting attorney, circuit attorney, or attorney general authorized to investigate, commence and prosecute an action under sections 195.005 to 195.425;

(5) "Controlled substance", a drug, substance, or immediate precursor in Schedules I through V listed in sections 195.005 to 195.425;

(6) "Controlled substance analogue", a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

(a) Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or

(b) With respect to a particular individual, which that individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II. The term does not include a controlled substance; any substance for which there is an approved new drug application; any substance for which an exemption is in effect for investigational use, for a particular person, under Section 505 of the federal Food, Drug and Cosmetic Act (21 U.S.C. 355) to the extent conduct with respect to the substance is pursuant to the exemption; or any substance to the extent not intended for human consumption before such an exemption takes effect with respect to the substance;

(7) "Counterfeit substance", a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance;

(8) "Deliver" or "delivery", the actual, constructive, or attempted transfer from one person to another of drug paraphernalia or of a controlled substance, or an imitation controlled substance, whether or not there is an agency relationship, and includes a sale;

(9) "Dentist", a person authorized by law to practice dentistry in this state;

(10) "Depressant or stimulant substance":

(a) A drug containing any quantity of barbituric acid or any of the salts of barbituric acid or any derivative of barbituric acid which has been designated by the United States Secretary of Health and Human Services as habit forming under 21 U.S.C. 352(d);

(b) A drug containing any quantity of:

a. Amphetamine or any of its isomers;

b. Any salt of amphetamine or any salt of an isomer of amphetamine; or
c. Any substance the United States Attorney General, after investigation, has found to be, and by regulation designated as, habit forming because of its stimulant effect on the central nervous system;

(c) Lysergic acid diethylamide; or

(d) Any drug containing any quantity of a substance that the United States Attorney General, after investigation, has found to have, and by regulation designated as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect;

(11) "Dispense", to deliver a narcotic or controlled dangerous drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for such delivery. "Dispenser" means a practitioner who dispenses;

(12) "Distribute", to deliver other than by administering or dispensing a controlled substance;

(13) "Distributor", a person who distributes;

(14) "Drug":

(a) Substances recognized as drugs in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or animals;

(c) Substances, other than food, intended to affect the structure or any function of the body of humans or animals; and

(d) Substances intended for use as a component of any article specified in this subdivision. It does not include devices or their components, parts or accessories;

(15) "Drug-dependent person", a person who is using a controlled substance and who is in a state of psychic or physical dependence, or both, arising from the use of such substance on a continuous basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects or to avoid the discomfort caused by its absence;

(16) "Drug enforcement agency", the Drug Enforcement Administration in the United States Department of Justice, or its successor agency;

(17) "Drug paraphernalia", all equipment, products, **substances** and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance or an imitation controlled substance in violation of sections 195.005 to 195.425. It includes, but is not limited to:

(a) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(b) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances or imitation controlled substances;

(c) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance or an imitation controlled substance;

(d) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances or imitation controlled substances;

(e) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances or imitation controlled substances;

(f) Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances or imitation controlled substances;

(g) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

(h) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances or imitation controlled substances;

(i) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances or imitation controlled substances;

(j) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances or imitation controlled substances;

(k) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances or imitation controlled substances into the human body;

(l) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

b. Water pipes;

c. Carburetion tubes and devices;

d. Smoking and carburetion masks;

e. Roach clips meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

f. Miniature cocaine spoons and cocaine vials;

g. Chamber pipes;

h. Carburetor pipes;

- i. Electric pipes;
- j. Air-driven pipes;
- k. Chillums;
- l. Bongs;
- m. Ice pipes or chillers;

(m) Substances used, intended for use, or designed for use in the manufacture of a controlled substance;

In determining whether an object, **product, substance or material** is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

- (a) Statements by an owner or by anyone in control of the object concerning its use;
- (b) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance or imitation controlled substance;
- (c) The proximity of the object, in time and space, to a direct violation of sections 195.005 to 195.425;
- (d) The proximity of the object to controlled substances or imitation controlled substances;
- (e) The existence of any residue of controlled substances or imitation controlled substances on the object;
- (f) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons who he knows, or should reasonably know, intend to use the object to facilitate a violation of sections 195.005 to 195.425; the innocence of an owner, or of anyone in control of the object, as to direct violation of sections 195.005 to 195.425 shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
- (g) Instructions, oral or written, provided with the object concerning its use;
- (h) Descriptive materials accompanying the object which explain or depict its use;
- (i) National or local advertising concerning its use;
- (j) The manner in which the object is displayed for sale;
- (k) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- (l) Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;
- (m) The existence and scope of legitimate uses for the object in the community;
- (n) Expert testimony concerning its use;
- (o) The quantity, form or packaging of the product, substance or material in relation to the quantity, form or packaging associated with any legitimate use for the product, substance or material;**

(18) "Federal narcotic laws", the laws of the United States relating to controlled substances;

(19) "Hospital", a place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care, for not less than twenty-four hours in any week, of three or more nonrelated individuals suffering from illness, disease, injury, deformity or other abnormal physical conditions; or a place devoted primarily to provide, for not less than twenty-four consecutive hours in any week, medical or nursing care for three or more nonrelated individuals. The term "hospital" does not include convalescent, nursing, shelter or boarding homes as defined in chapter 198, RSMo;

(20) "Immediate precursor", a substance which:

(a) The state department of health has found to be and by rule designates as being the principal compound commonly used or produced primarily for use in the manufacture of a controlled substance;

(b) Is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance; and

(c) The control of which is necessary to prevent, curtail or limit the manufacture of the controlled substance;

(21) "Imitation controlled substance", a substance that is not a controlled substance, which by dosage unit appearance (including color, shape, size and markings), or by representations made, would lead a reasonable person to believe that the substance is a controlled substance. In determining whether the substance is an "imitation controlled substance" the court or authority concerned should consider, in addition to all other logically relevant factors, the following:

(a) Whether the substance was approved by the federal Food and Drug Administration for over-the-counter (nonprescription or nonlegend) sales and was sold in the federal Food and Drug Administration approved package, with the federal Food and Drug Administration approved labeling information;

(b) Statements made by an owner or by anyone else in control of the substance concerning the nature of the substance, or its use or effect;

(c) Whether the substance is packaged in a manner normally used for illicit controlled substances;

(d) Prior convictions, if any, of an owner, or anyone in control of the object, under state or federal law related to controlled substances or fraud;

(e) The proximity of the substances to controlled substances;

(f) Whether the consideration tendered in exchange for the noncontrolled substance substantially exceeds the reasonable value of the substance considering the actual chemical composition of the substance and, where applicable, the price at which over-the-counter substances of like chemical composition sell. An imitation controlled substance does not include a placebo or registered investigational drug either of which was manufactured, distributed, possessed or delivered in the ordinary course of professional practice or research;

(22) "Laboratory", a laboratory approved by the department of health as proper to be entrusted

with the custody of controlled substances but does not include a pharmacist who compounds controlled substances to be sold or dispensed on prescriptions;

(23) "Manufacture", the production, preparation, propagation, compounding or processing of drug paraphernalia or of a controlled substance, or an imitation controlled substance, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. This term does not include the preparation or compounding of a controlled substance or an imitation controlled substance or the preparation, compounding, packaging or labeling of a narcotic or dangerous drug:

(a) By a practitioner as an incident to his administering or dispensing of a controlled substance or an imitation controlled substance in the course of his professional practice, or

(b) By a practitioner or his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale;

(24) "Marijuana", all parts of the plant genus *Cannabis* in any species or form thereof, including, but not limited to *Cannabis Sativa* L., *Cannabis Indica*, *Cannabis Americana*, *Cannabis Ruderalis*, and *Cannabis Gigantea*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination;

(25) **"Methamphetamine precursor drug", any drug containing ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers;**

(26) "Narcotic drug", any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical analysis:

(a) Opium, opiate, and any derivative, of opium or opiate, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation. The term does not include the isoquinoline alkaloids of opium;

(b) Coca leaves, but not including extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(c) Cocaine or any salt, isomer, or salt of isomer thereof;

(d) Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof;

(e) Any compound, mixture, or preparation containing any quantity of any substance referred to

in paragraphs (a) to (d) of this subdivision;

[(26)] (27) "Official written order", an order written on a form provided for that purpose by the United States Commissioner of Narcotics, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided, then on an official form provided for that purpose by the department of health;

[(27)] (28) "Opiate", any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes its racemic and levorotatory forms. It does not include, unless specifically controlled under section 195.017, the dextrorotatory isomer of 3-methoxy-n-methyl-morphinan and its salts (dextromethorphan);

[(28)] (29) "Opium poppy", the plant of the species *Papaver somniferum* L., except its seeds;

(30) **"Over-the-counter sale", a retail sale licensed pursuant to chapter 144, RSMo, of a drug other than a controlled substance;**

[(29)] (31) "Person", an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, joint venture, association, or any other legal or commercial entity;

[(30)] (32) "Pharmacist", a licensed pharmacist as defined by the laws of this state, and where the context so requires, the owner of a store or other place of business where controlled substances are compounded or dispensed by a licensed pharmacist; but nothing in sections 195.005 to 195.425 shall be construed as conferring on a person who is not registered nor licensed as a pharmacist any authority, right or privilege that is not granted to him by the pharmacy laws of this state;

[(31)] (33) "Poppy straw", all parts, except the seeds, of the opium poppy, after mowing;

[(32)] (34) "Possessed" or "possessing a controlled substance", a person, with the knowledge of the presence and nature of a substance, has actual or constructive possession of the substance. A person has actual possession if he has the substance on his person or within easy reach and convenient control. A person who, although not in actual possession, has the power and the intention at a given time to exercise dominion or control over the substance either directly or through another person or persons is in constructive possession of it. Possession may also be sole or joint. If one person alone has possession of a substance possession is sole. If two or more persons share possession of a substance, possession is joint;

[(33)] (35) "Practitioner", a physician, dentist, optometrist, podiatrist, veterinarian, scientific investigator, pharmacy, hospital or other person licensed, registered or otherwise permitted by this state to distribute, dispense, conduct research with respect to or administer or to use in teaching or chemical analysis, a controlled substance in the course of professional practice or research in this state, or a pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research;

[(34)] (36) "Production", includes the manufacture, planting, cultivation, growing, or harvesting of drug paraphernalia or of a controlled substance or an imitation controlled substance;

[(35)] (37) "Registry number", the number assigned to each person registered under the federal controlled substances laws;

[(36)] (38) "Sale", includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as principal, proprietor, agent, servant or employee;

[(37)] (39) "State" when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States of America;

[(38)] (40) "Ultimate user", a person who lawfully possesses a controlled substance or an imitation controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household;

[(39)] (41) "Wholesaler", a person who supplies drug paraphernalia or controlled substances or imitation controlled substances that he himself has not produced or prepared, on official written orders, but not on prescriptions.

195.235. 1. It is unlawful for any person to deliver, possess with intent to deliver, or manufacture, with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance or an imitation controlled substance in violation of sections 195.005 to 195.425.

2. Possession of more than twenty-four grams of any methamphetamine precursor drug or combination of methamphetamine precursor drugs shall be prima facie evidence of intent to violate this section. This subsection shall not apply to any practitioner or to any product possessed in the course of a legitimate business.

3. A person who violates this section is guilty of a class D felony.

195.246. 1. It is unlawful for any person to possess [ephedrine, its salts, optical isomers and salts of optical isomers or pseudoephedrine, its salts, optical isomers and salts of optical isomers] **any methamphetamine precursor drug** with the intent to manufacture **amphetamine**, methamphetamine or any of [its] **their** analogs.

2. Possession of more than twenty-four grams of any methamphetamine precursor drug or combination of methamphetamine precursor drugs shall be prima facie evidence of intent to violate this section. This subsection shall not apply to any practitioner or to any product possessed in the course of a legitimate business.

3. A person who violates this section is guilty of a class D felony.

195.417. 1. No person shall deliver in any single over-the-counter sale more than three

packages of any methamphetamine precursor drug or any combination of methamphetamine precursor drugs.

2. This section shall not apply to any product labeled pursuant to federal regulation for use only in children under twelve years of age, or to any products that the state department of health, upon application of a manufacturer, exempts by rule from this section because the product has been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine, or its salts or precursors.

3. Any person who knowingly or recklessly violates this section is guilty of a class A misdemeanor.

195.418. 1. The retail sale of methamphetamine precursor drugs shall be limited to:

(1) Sales in packages containing not more than a total of three grams of one or more methamphetamine precursor drugs, calculated in terms of ephedrine base, pseudoephedrine base and phenylpropanolamine base; and

(2) For nonliquid products, sales in blister packs, each blister containing not more than two dosage units, or where the use of blister packs is technically infeasible, sales in unit dose packets or pouches.

2. Any person holding a retail sales license pursuant to chapter 144, RSMo, who knowingly violates subsection 1 of this section is guilty of a class A misdemeanor.

3. Any person who is considered the general owner or operator of the outlet where ephedrine, pseudoephedrine, or phenylpropanolamine products are available for sale who violates subsection 1 of this section shall not be penalized pursuant to this section if such person documents that an employee training program was in place to provide the employee with information on the state and federal regulations regarding ephedrine, pseudoephedrine, or phenylpropanolamine.

195.515. 1. Any manufacturer or wholesaler who sells, transfers, or otherwise furnishes ephedrine, pseudoephedrine or phenylpropanolamine, or any of their salts, optical isomers and salts of optical isomers, alone or in a mixture, and is required by federal law to report any suspicious transaction to the United States attorney general, shall submit a copy of the report to the chief law enforcement official with jurisdiction before completion of the sale or as soon as practicable thereafter.

2. As used in this section, "suspicious transaction" means any sale or transfer required to be reported pursuant to 21 U.S.C. 830(b)(1).

3. Any violation of this section shall be a class D felony.

441.236. 1. In the event that any premises to be leased by a landlord is or was used as a site for methamphetamine production, the landlord shall disclose in writing to the tenant the fact that methamphetamine was produced on the premises, provided that the landlord had knowledge

of such prior methamphetamine production. The landlord shall disclose any prior knowledge of methamphetamine production, regardless of whether the persons involved in the production were convicted for such production.

2. A landlord shall disclose in writing the fact that any premises to be leased by the landlord either was the place of residence of a person convicted of any of the following crimes, or was the storage site or laboratory for any of the substances for which a person was convicted of any of the following crimes, provided that the landlord knew or should have known of such convictions:

- (1) Creation of a controlled substance in violation of section 195.420, RSMo;
- (2) Possession of ephedrine with intent to manufacture methamphetamine in violation of section 195.246, RSMo;
- (3) Unlawful use of drug paraphernalia with the intent to manufacture methamphetamine in violation of subsection 2 of section 195.233, RSMo;
- (4) Endangering the welfare of a child by any of the means described in subdivision (4) or (5) of subsection 1 of section 568.045, RSMo; or
- (5) Any other crime related to methamphetamine, its salts, optical isomers and salts of its optical isomers either in chapter 195, RSMo, or in any other provision of law.

442.606. 1. In the event that any parcel of real property to be sold, exchanged or transferred is or was used as a site for methamphetamine production, the seller or transferor shall disclose in writing to the buyer or transferee the fact that methamphetamine was produced on the premises, provided that the seller or transferor had knowledge of such prior methamphetamine production. The seller or transferor shall disclose any prior knowledge of methamphetamine production, regardless of whether the persons involved in the production were convicted for such production.

2. A seller or transferor of any parcel of real property shall disclose in writing the fact that any premises to be sold or transferred either was the place of residence of a person convicted of any of the following crimes, or was the storage site or laboratory for any of the substances for which a person was convicted of any of the following crimes, provided that the seller or transferor knew or should have known of such convictions:

- (1) Creation of a controlled substance in violation of section 195.420, RSMo;
- (2) Possession of ephedrine with intent to manufacture methamphetamine in violation of section 195.246, RSMo;
- (3) Unlawful use of drug paraphernalia with the intent to manufacture methamphetamine in violation of subsection 2 of section 195.233, RSMo;
- (4) Endangering the welfare of a child by any of the means described in subdivision (4) or (5) of subsection 1 of section 568.045, RSMo; or

(5) Any other crime related to methamphetamine, its salts, optical isomers and salts of its optical isomers either in chapter 195, RSMo, or in any other provision of law.

537.297. 1. The following words as used in this section shall have the following meanings:

(1) "Owner", all of the following persons:

(a) Any person who lawfully owns anhydrous ammonia;

(b) Any person who lawfully owns a container, equipment or storage facility containing anhydrous ammonia;

(c) Any person responsible for the installation or operation of such containers, equipment or storage facilities;

(d) Any person lawfully selling anhydrous ammonia;

(e) Any person lawfully purchasing anhydrous ammonia for agricultural purposes;

(f) Any person who operates or uses anhydrous ammonia containers, equipment or storage facilities when lawfully applying anhydrous ammonia for agricultural purposes;

(2) "Tamperer", a person who commits or assists in the commission of tampering;

(3) "Tampering", transferring or attempting to transfer anhydrous ammonia from its present container, equipment or storage facility to another container, equipment or storage facility, without prior authorization from the owners.

2. A tamperer assumes the risk of any personal injury, death and other economic and noneconomic loss arising from his or her participation in the act of tampering. A tamperer or any person related to a tamperer shall not commence a direct or derivative action against any owner as it relates to the act of tampering. Owners are immune from suit by a tamperer or any person related to a tamperer and shall not be held liable for any negligent act or omission which may cause personal injury, death or other economic or noneconomic loss to a tamperer as it relates to the act of tampering.

3. The immunity from liability and suit authorized by this section is expressly waived for owners whose acts or omissions constitute willful or wanton negligence.

570.030. 1. A person commits the crime of stealing if he or she appropriates property or services of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion.

2. Evidence of the following is admissible in any criminal prosecution under this section on the issue of the requisite knowledge or belief of the alleged stealer:

(1) That he or she failed or refused to pay for property or services of a hotel, restaurant, inn or boardinghouse;

(2) That he or she gave in payment for property or services of a hotel, restaurant, inn or boardinghouse a check or negotiable paper on which payment was refused;

(3) That he or she left the hotel, restaurant, inn or boardinghouse with the intent to not pay for

property or services;

(4) That he or she surreptitiously removed or attempted to remove his or her baggage from a hotel, inn or boardinghouse.

3. Stealing is a class C felony if:

(1) The value of the property or services appropriated is seven hundred fifty dollars or more; or

(2) The actor physically takes the property appropriated from the person of the victim; or

(3) The property appropriated consists of:

(a) Any motor vehicle, watercraft or aircraft; or

(b) Any will or unrecorded deed affecting real property; or

(c) Any credit card or letter of credit; or

(d) Any firearms; or

(e) A United States national flag designed, intended and used for display on buildings or stationary flagstaffs in the open; or

(f) Any original copy of an act, bill or resolution, introduced or acted upon by the legislature of the state of Missouri; or

(g) Any pleading, notice, judgment or any other record or entry of any court of this state, any other state or of the United States; or

(h) Any book of registration or list of voters required by chapter 115, RSMo; or

(i) Any animal of the species of horse, mule, ass, cattle, swine, sheep, or goat; or

(j) Live fish raised for commercial sale with a value of seventy-five dollars; or

(k) Any controlled substance as defined by section 195.010, RSMo.

4. If an actor appropriates any material with a value less than one hundred fifty dollars in violation of this section with the intent to use such material to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues, then such violation is a class D felony. The theft of any amount of anhydrous ammonia or liquid nitrogen, or any attempt to steal any amount of anhydrous ammonia or liquid nitrogen, is a class [D] C felony. **The theft of any amount of anhydrous ammonia by appropriation of a tank truck, tank trailer, rail tank car, bulk storage tank, field (nurse) tank or field applicator is a class A felony.**

5. The theft of any item of property or services under subsection 3 of this section which exceeds seven hundred fifty dollars may be considered a separate felony and may be charged in separate counts.

6. Any person with a prior conviction of paragraph (i) of subdivision (3) of subsection 3 of this section and who violates the provisions of paragraph (i) of subdivision (3) of subsection 3 of this section when the value of the animal or animals stolen exceeds three thousand dollars is guilty of a class B felony.

7. Any violation of this section for which no other penalty is specified in this section is a class A misdemeanor.

578.154. 1. A person commits the crime of possession of anhydrous ammonia in a

nonapproved container if he or she possesses any quantity of anhydrous ammonia in any container other than a tank truck, tank trailer, rail tank car, bulk storage tank, field (nurse) tank or field applicator or any container approved for anhydrous ammonia by the department of agriculture or the United States Department of Transportation.

2. A violation of this section is a class D felony.

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