

# TITLE XXX

## OCCUPATIONS AND PROFESSIONS

### CHAPTER 318-D

#### METHAMPHETAMINE-RELATED OFFENSES

##### Section 318-D:1

**318-D:1 Definitions.** – In this chapter:

I. "Anhydrous ammonia" means ammonia that has been cooled, pressurized, or both so that it exists in liquid form. Water may be present in varying degrees, if at all. This definition shall not include commercially available water solutions of ammonia such as glass cleaners.

II. "Clandestine lab site" means any structure or conveyance or location occupied or affected by conditions or chemicals typically associated with the manufacturing of methamphetamine.

III. "Emergency response" includes, but is not limited to, removing and collecting evidence, securing the site, removal, remediation, and hazardous chemical assessment or inspection of the site where the relevant offense or offenses took place, regardless of whether these actions are performed by a public entity, a private contractor paid by a public entity, or the property owner.

IV. "Remediation" means proper cleanup, treatment, or containment of hazardous substances or methamphetamine at or in a clandestine lab site, and may include demolition or disposal of structures or other property.

V. "Removal" means the removal from the clandestine lab site of precursor or waste chemicals, chemical containers, or equipment associated with the manufacture, packaging, or storage of illegal drugs.

**Source.** 2006, 241:1, eff. Jan. 1, 2007.

##### Section 318-D:2

**318-D:2 Manufacture of Methamphetamine.** –

I. It shall be unlawful for any person to knowingly manufacture or attempt to manufacture methamphetamine. A person is guilty of an attempt to manufacture methamphetamine if the person:

(a) With the purpose that the crime of manufacturing methamphetamine be committed, the person engages in any conduct that, under the circumstances as the person believes them to be, is an act constituting a substantial step toward the commission of the crime; or

(b) Possesses one or more of the following substances or their salts or isomers, with the intent to manufacture methamphetamine:

- (1) Acetic acid.
- (2) Acetic anhydride.
- (3) Aluminum.
- (4) Ammonium nitrate.
- (5) Anhydrous ammonia.

- (6) Benzaldehyde.
- (7) Benzyl chloride.
- (8) Benzyl cyanide.
- (9) Chloroephedrine.
- (10) Chloropseudoephedrine.
- (11) Elemental phosphorous.
- (12) Ephedrine.
- (13) Ethylamine.
- (14) Formic acid.
- (15) Hydriodic acid.
- (16) Hydrochloric acid.
- (17) Hydrogen.
- (18) Hydrogen peroxide.
- (19) Hypophosphorus acid.
- (20) Iodine.
- (21) Lithium metal.
- (22) Mercuric chloride.
- (23) Methylamine.
- (24) N-methyl formamide.
- (25) Nitroethane.
- (26) Palladium.
- (27) Perchloric acid.
- (28) Phenylacetic acid.
- (29) Phosphorous pentachloride.
- (30) Platinum.
- (31) Raney nickel.
- (32) Sodium acetate.
- (33) Sodium hydroxide.
- (34) Sodium hypochlorite.
- (35) Sodium hypophosphite.
- (36) Sodium metal.
- (37) Sodium/potassium cyanide.
- (38) Sulfuric acid.
- (39) Thionyl chloride.
- (40) Tincture of iodine.

(c) Possesses one or more of the following organic solvents with the intent to manufacture methamphetamine:

- (1) Acetone.
- (2) Chloroform.
- (3) Cyclohexane.
- (4) Ethanol.
- (5) Ether.
- (6) Light petroleum distillates.
- (7) Methanol.
- (8) Methyl isobutyl ketone.
- (9) Phenyl-2 porpanone.

(10) Tetrachloroethylene.

(11) Toluene.

II. Notwithstanding the provisions of RSA 318-B:26, I, a person convicted under this section may be sentenced to imprisonment for not more than 30 years, a fine of not more than \$500,000, or both. A person convicted under this section who has one or more prior offenses as defined in RSA 318-B:27, shall be sentenced to imprisonment for not less than 5 years and not more than life imprisonment, a fine of not more than \$500,000, or both.

III. A court may require a person convicted of manufacturing or attempting to manufacture methamphetamine, where the response to the crime involved an emergency response or a hazardous substance cleanup operation, to pay restitution to all public entities, or private entities under contract to a public entity, that participated in the response or the cleanup. The restitution ordered shall cover the reasonable costs of the entities' participation in the response and the reasonable costs of the site cleanup.

IV. In addition to the restitution authorized in paragraph III, a court may require a person convicted of manufacturing or attempting to manufacture methamphetamine to pay restitution to a property owner who incurred removal or remediation costs as a result of the crime.

**Source.** 2006, 241:1, eff. Jan. 1, 2007.

### **Section 318-D:3**

#### **318-D:3 Injury Resulting From the Manufacture of Methamphetamine. –**

I. A person shall be guilty of an offense if that person recklessly causes serious bodily injury to a law enforcement officer, firefighter, emergency medical technician, ambulance operator, ambulance attendant, or social worker, civilian government employee, or hazardous material contractor acting in his or her official duties, as a result of the hazards posed by the person's conduct in manufacturing or attempting to manufacture methamphetamine. For purposes of this section, a person who takes any substantial step towards the manufacture of methamphetamine acts recklessly.

II. A person convicted of an offense under this section may be sentenced to imprisonment for not more than 20 years, or a fine of not more than \$300,000 or both.

**Source.** 2006, 241:1, eff. Jan. 1, 2007.

### **Section 318-D:4**

**318-D:4 Sale, Transfer, Lease, or Rental of Real Property on Which Methamphetamine has Been Produced. –** Any sale, transfer, lease, or rental of real property on which methamphetamine has been produced shall be subject to the provisions of RSA 477:4-g.

**Source.** 2006, 241:1, eff. Jan. 1, 2007.

### **Section 318-D:5**

#### **318-D:5 Anhydrous Ammonia; Prohibited Conduct. –**

I. In this section, "tamper" means action taken by a person not authorized to take that action by

law, or by the owner or authorized custodian of an anhydrous ammonia container, or of equipment where anhydrous ammonia is used, stored, distributed, or transported.

II. No person shall:

(a) Steal or unlawfully take or carry away any amount of anhydrous ammonia.

(b) Purchase, possess, transfer, or distribute any amount of anhydrous ammonia, knowing, or having reason to know, that it will be used to unlawfully manufacture a controlled substance or explosive device.

(c) Place, have placed, or possess anhydrous ammonia in a container that is not designed, constructed, maintained, and authorized to contain or transport anhydrous ammonia.

(d) Transport anhydrous ammonia in a container that is not designed, constructed, maintained, and authorized to transport anhydrous ammonia.

(e) Use, deliver, receive, sell, or transport a container designed and constructed to contain anhydrous ammonia without the express consent of the owner or authorized custodian of the container.

(f) Tamper with any equipment or facility used to contain, store, or transport anhydrous ammonia.

III. The department of safety shall adopt rules, pursuant to RSA 541-A, in order to implement and enforce the provisions of this section.

IV. Except as provided in paragraph V, a person who tampers with anhydrous ammonia containers or equipment under this section shall have no cause of action for damages arising out of the tampering against:

(a) The owner or lawful custodian of the container or equipment;

(b) A person responsible for the installation or maintenance of the container or equipment;

or

(c) A person lawfully selling or offering for sale the anhydrous ammonia.

V. Paragraph IV shall not apply to a cause of action against a person who unlawfully obtained the anhydrous ammonia or anhydrous ammonia container or who possesses the anhydrous ammonia or anhydrous ammonia container for any unlawful purpose.

VI. A person who knowingly violates paragraph II may be sentenced to imprisonment for not more than 5 years or a fine of not more than \$50,000, or both.

**Source.** 2006, 241:1, eff. Jan. 1, 2007.