

EXHIBIT 3
DATE 1-14-05
SB 166

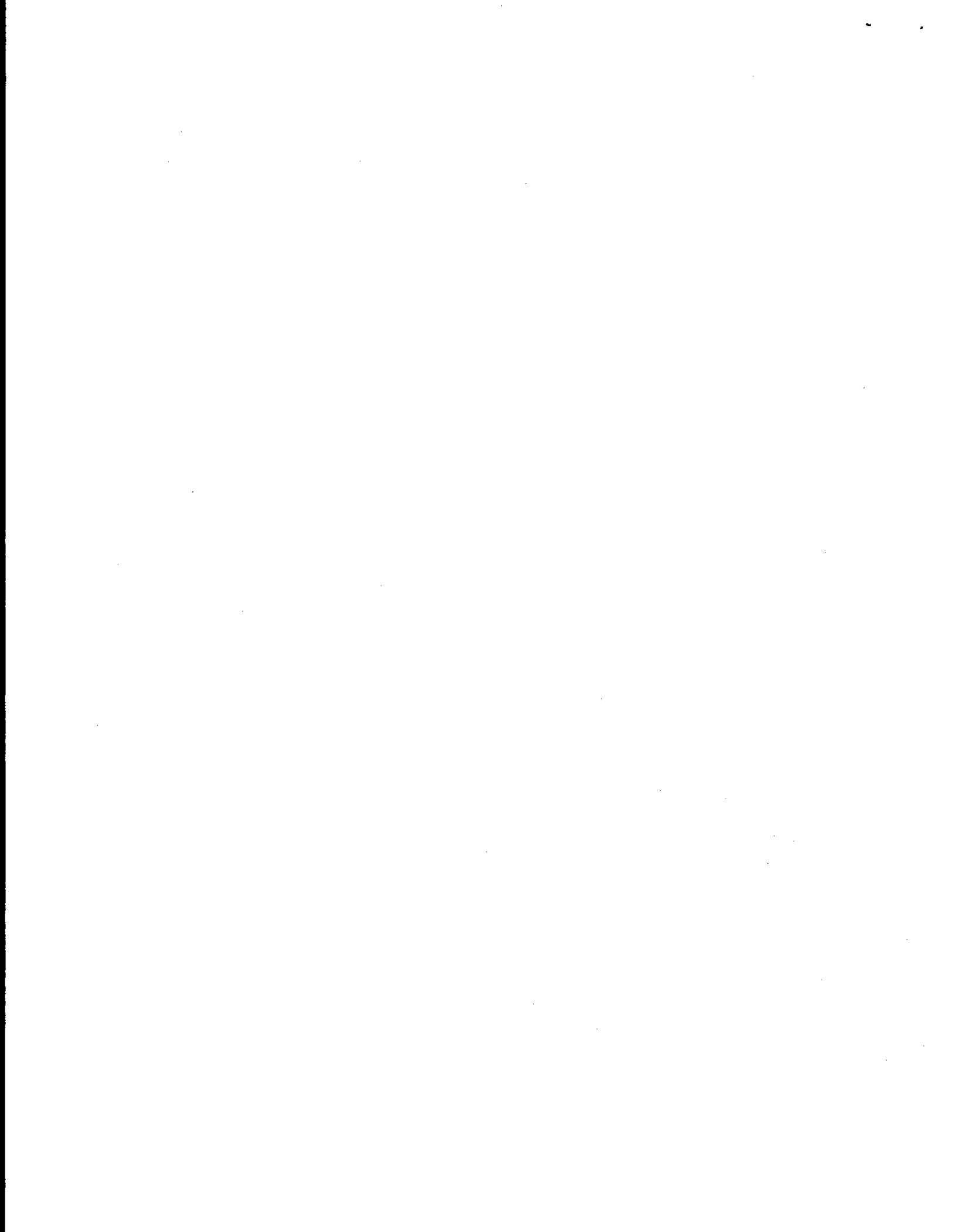
Amendments to Senate Bill No. 166
1st Reading Copy

Requested by Senator Jerry Black
For the Senate Judiciary Committee

Prepared by Valencia Lane
January 14, 2005 (8:45am)

1. Title, line 6.
Following: "POSSESSION"
Strike: "OF LESS THAN 1,000 GALLONS"
Following: "AMMONIA"
Insert: "WITH INTENT TO MANUFACTURE DANGEROUS DRUGS"
2. Title, line 7 through line 9.
Following: "DRUGS" on line 7
Strike: remainder of line 7 through "OPERATIONS" on line 9
3. Page 3, line 15.
Following: "if"
Insert: ": (a)"
Following: "possesses"
Strike: "i:"
4. Page 3, line 16.
Strike: "(a)"
5. Page 4, line 2.
Strike: subsection (b) in its entirety
Insert: "(b) the person knowingly possesses anhydrous ammonia for the purpose of manufacturing dangerous drugs."
6. Page 4, line 6.
Following: "possession"
Strike: "of less than 1,000 gallons"
7. Page 4, line 7 through line 9.
Strike: "by" on line 7 through "operations" on line 9
Insert: "for any lawful purpose, including using, supplying, or delivering anhydrous ammonia for agricultural, industrial, metallurgical, or refrigeration purposes, if the possession is not for the purpose of manufacturing dangerous drugs"
8. Page 4, line 28 through line 29.
Following: "means" on line 28

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Strike: remainder of line 28 through "ammonia" on line 29

9. Page 4, line 30.

Following: "by"

Strike: "45-9-107(3) or"

Following: "45-9-108"

Insert: ", any material, compound, mixture, or preparation that contains any combination of the items listed in 45-9-107(1)(a) or anhydrous ammonia knowingly possessed for the purpose of manufacturing dangerous drugs"

- END -



S BILL NO. 1166

Steve Jones

1

2

INTRODUCED BY

(Primary Sponsor)

Jerry Black ROUSH

3

Carol Jones

John Witt

Elis Arndt

4

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING METHAMPHETAMINE ENFORCEMENT LAWS;

5

MAKING THEFT OF ANY AMOUNT OF ANHYDROUS AMMONIA A FELONY; PROVIDING THAT

6

POSSESSION OF ~~LESS THAN 4,000 GALLONS~~ OF ANHYDROUS AMMONIA IS CRIMINAL POSSESSION

with intent to manufacture dangerous drugs

7

OF PRECURSORS TO DANGEROUS DRUGS, EXCEPT POSSESSION BY PERSONS LAWFULLY ENGAGED

8

IN AN AGRICULTURAL OPERATION OR IN THE BUSINESS OF SUPPLYING OR DELIVERING ANHYDROUS

9

AMMONIA TO AGRICULTURAL OPERATIONS; AMENDING SECTIONS 45-6-301, 45-9-107, AND 45-9-131,

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MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

11

12

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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14

Section 1. Section 45-6-301, MCA, is amended to read:

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"45-6-301. Theft. (1) A person commits the offense of theft when the person purposely or knowingly

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obtains or exerts unauthorized control over property of the owner and:

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(a) has the purpose of depriving the owner of the property;

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(b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the

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owner of the property; or

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(c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment

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probably will deprive the owner of the property.

22

(2) A person commits the offense of theft when the person purposely or knowingly obtains by threat or

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deception control over property of the owner and:

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(a) has the purpose of depriving the owner of the property;

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(b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the

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owner of the property; or

27

(c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment

28

probably will deprive the owner of the property.

29

(3) A person commits the offense of theft when the person purposely or knowingly obtains control over

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stolen property knowing the property to have been stolen by another and:



1 (a) has the purpose of depriving the owner of the property;

2 (b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the
3 owner of the property; or

4 (c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment
5 probably will deprive the owner of the property.

6 (4) A person commits the offense of theft when the person purposely or knowingly obtains or exerts
7 unauthorized control over any part of any public assistance provided under Title 52 or 53 by a state or county
8 agency, regardless of the original source of assistance, by means of:

9 (a) a knowingly false statement, representation, or impersonation; or

10 (b) a fraudulent scheme or device.

11 (5) A person commits the offense of theft when the person purposely or knowingly obtains or exerts or
12 helps another obtain or exert unauthorized control over any part of any benefits provided under Title 39, chapter
13 71 or 72, by means of:

14 (a) a knowingly false statement, representation, or impersonation; or

15 (b) deception or other fraudulent action.

16 (6) (a) A person commits the offense of theft when the person purposely or knowingly commits
17 insurance fraud as provided in 33-1-1202 or 33-1-1302; or

18 (b) purposely or knowingly diverts or misappropriates insurance premiums as provided in 33-17-1102.

19 (7) A person commits the offense of theft of property by embezzlement when, with the purpose to
20 deprive the owner of the property, the person:

21 (a) purposely or knowingly obtains or exerts unauthorized control over property of the person's employer
22 or over property entrusted to the person; or

23 (b) purposely or knowingly obtains by deception control over property of the person's employer or over
24 property entrusted to the person.

25 (8) (a) Except as provided in subsection (8)(b), a person convicted of the offense of theft of property
26 not exceeding \$1,000 in value shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail
27 for a term not to exceed 6 months, or both. A person convicted of a second offense shall be fined \$1,000 or be
28 imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of a third or
29 subsequent offense shall be fined \$1,000 and be imprisoned in the county jail for a term of not less than 30 days
30 or more than 6 months.

1 (b) Except as provided in subsection (8)(c), a person convicted of the offense of theft of property
 2 exceeding \$1,000 in value, ~~or theft of any commonly domesticated hoofed animal, or theft of any amount of~~
 3 anhydrous ammonia shall be fined an amount not to exceed \$50,000 or be imprisoned in a state prison for a
 4 term not to exceed 10 years, or both.

5 (c) A person convicted of the offense of theft of property exceeding \$10,000 in value by embezzlement
 6 shall be imprisoned in a state prison for a term of not less than 1 year or more than 10 years and may be fined
 7 an amount not to exceed \$50,000. The court may, in its discretion, place the person on probation with the
 8 requirement that restitution be made under terms set by the court. If the terms are not met, the required prison
 9 term may be ordered.

10 (9) Amounts involved in thefts committed pursuant to a common scheme or the same transaction,
 11 whether from the same person or several persons, may be aggregated in determining the value of the property."
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13 **Section 2.** Section 45-9-107, MCA, is amended to read:

14 **"45-9-107. Criminal possession of precursors to dangerous drugs.** (1) A person commits the
 15 offense of criminal possession of precursors to dangerous drugs if ^{f: (a)} the person possesses ~~—~~

16 ~~(a)~~ any material, compound, mixture, or preparation that contains any combination of the following with
 17 intent to manufacture dangerous drugs:

18 (a)(i) phenyl-2-propanone (phenylacetone);

19 (b)(ii) piperidine in conjunction with cyclohexanone;

20 (c)(iii) ephedrine;

21 (d)(iv) lead acetate;

22 (e)(v) methylamine;

23 (f)(vi) methylformamide;

24 (g)(vii) n-methylephedrine;

25 (h)(viii) phenylpropanolamine;

26 (i)(ix) pseudoephedrine;

27 (j)(x) anhydrous ammonia;

28 (k)(xi) hydriodic acid;

29 (l)(xii) red phosphorus;

30 (m)(xiii) iodine in conjunction with ephedrine, pseudoephedrine, or red phosphorus;

59th Legislature) b) the person knowingly possesses anhydrous ammonia for LC0002.01
the purpose of manufacturing dangerous drugs.

1 (n)(xiv) lithium in conjunction with anhydrous ammonia; or

2 ~~(b) less than 1,000 gallons of anhydrous ammonia, except as provided in subsection (3);~~

3 (2) A person convicted of criminal possession of precursors to dangerous drugs shall be imprisoned
4 in the state prison for a term not less than 2 years or more than 20 years or be fined an amount not to exceed
5 \$50,000, or both.

6 (3) ~~Subsection (1)(b) does not apply to possession of less than 1,000 gallons of anhydrous ammonia~~
7 ~~by a person who owns, operates, or is employed in an agricultural operation, as described in 15-1-101, or who~~
8 ~~owns, oper~~ for any lawful purpose, including using, supplying, or ~~agricultural~~
9 ~~oper~~ delivering anhydrous ammonia for agricultural, industrial,
10 metallurgical, or refrigeration purposes, if the possession
is not for the purpose of manufacturing dangerous drugs"

11 Section 3. Section 45-9-131, MCA, is amended to read:

12 "45-9-131. Definitions. As used in 45-9-132 and this section, the following definitions apply:

13 (1) "Booby trap" means any concealed or camouflaged device designed to cause bodily injury when
14 triggered by any action of a person making contact with the device. "Booby trap" includes:

- 15 (a) guns, ammunition, or explosive devices that are attached to trip wires or other triggering
16 mechanisms;
- 17 (b) sharpened stakes, nails, spikes, electrical devices, lines, or wires with hooks attached; and
- 18 (c) devices for the production of toxic fumes or gases.

19 (2) "Equipment" or "laboratory equipment" means all products, components, or materials of any kind
20 when used, intended for use, or designed for use in the manufacture, preparation, production, compounding,
21 conversion, or processing of a dangerous drug as defined in 50-32-101. Equipment or laboratory equipment
22 includes but is not limited to:

- 23 (a) a reaction vessel;
- 24 (b) a separatory funnel or its equivalent;
- 25 (c) a glass condensor;
- 26 (d) an analytical balance or scale; or
- 27 (e) a heating mantle or other heat source.

28 (3) "Precursor to dangerous drugs" means ~~any material, compound, mixture, or preparation that~~
29 ~~contains any combination of the items listed in 45-9-107(1)(a) or less than 1,000 gallons of anhydrous ammonia,~~
30 ~~except as exempted by 45-9-107(3) or 45-9-108,"~~

31 , any material, compound, mixture, or preparation that
32 contains any combination of the items listed in 45-9-
33 107(1) (a) or anhydrous ammonia knowingly possessed for the ion-LC 2
purpose of manufacturing dangerous drugs"

