



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

September 15, 2005

S. 103

Combat Meth Act of 2005

As reported by the Senate Committee on the Judiciary on July 28, 2005

SUMMARY

S. 103 would authorize appropriations over the 2006-2009 period to fund several programs in the Department of Justice (DOJ) and the Department of Health and Human Services (HHS) that aim to combat the abuse of methamphetamine. CBO estimates that those authorizations total about \$95 million for the four-year period. In addition, the bill would classify pseudoephedrine and ephedrine as controlled substances and would limit retail sales of products that contain them. Assuming appropriation of the necessary amounts, CBO estimates that implementing S. 103 would cost about \$90 million over the 2006-2010 period. Enacting the bill also could affect direct spending, but CBO estimates that any net effects would not be significant for any year.

S. 103 would impose an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) by preempting some state laws that regulate pharmaceutical sales. In addition, the bill would impose an intergovernmental mandate on some publicly owned pharmacies by requiring tighter controls for selling and storing over-the-counter drugs containing pseudoephedrine and ephedrine. CBO estimates that the costs, if any, for states, localities, and publicly owned pharmacies to comply with those mandates would be insignificant and well below the threshold established in UMRA (\$62 million in 2005, adjusted for inflation).

S. 103 would impose private-sector mandates, as defined in UMRA, on individuals and persons involved in the sale and distribution of certain medications containing pseudoephedrine or ephedrine. CBO estimates that the aggregate direct costs of complying with those mandates would fall below the annual threshold established by UMRA for private-sector mandates (\$123 million in 2005, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 103 is shown in the following table. The costs of this legislation fall within budget function 750 (administration of justice).

	By Fiscal Year, in Millions of Dollars					
	2005	2006	2007	2008	2009	2010
SPENDING SUBJECT TO APPROPRIATION^a						
Spending Under Current Law for Programs						
Funded by S. 103						
Budget Authority ^b	20	0	0	0	0	0
Estimated Outlays	16	11	2	1	0	0
Proposed Changes:						
DOJ Programs						
Estimated Authorization Level	0	25	10	0	0	0
Estimated Outlays	0	5	11	9	6	4
HHS Programs						
Authorization Level	0	16	16	15	12	0
Estimated Outlays	0	6	13	15	14	8
Total Changes						
Estimated Authorization Level	0	41	26	15	12	0
Estimated Outlays	0	11	24	24	20	12
Spending Under S. 103						
Estimated Authorization Level ^a	20	41	26	14	12	0
Estimated Outlays	16	22	26	25	20	12

a. In addition to the amounts shown above, enacting S. 103 also could affect direct spending, but CBO estimates that any net effects would not be significant in any year.

b. The 2005 level is the amount appropriated for that year for the programs authorized by S. 103.

BASIS OF ESTIMATE

For this estimate, CBO assumes that the bill will be enacted near the start of fiscal year 2006. CBO estimates that implementing S. 103 would cost about \$90 million over the 2006-2010 period, assuming appropriation of the necessary amounts. We also estimate that enacting the bill could affect direct spending, but any net effects would not be significant in any year.

Spending Subject to Appropriation

For this estimate, CBO assumes that the amounts authorized by the bill for the programs listed below will be appropriated near the start of each fiscal year and that spending will follow the historical spending patterns for those or similar activities. For some programs, the bill would authorize the appropriation of a specific sum for one or more years and such sums as are necessary for specific additional years. To estimate the amounts necessary in that situation, CBO adjusted the authorized level for inflation anticipated in future years.

For DOJ, the bill would authorize the appropriation of:

- \$5 million for each of fiscal years 2006 and 2007 for grants to state and local governments to monitor the substances used to make methamphetamine;
- \$15 million for fiscal year 2006 for grants to state and local governments to train prosecutors and law enforcement personnel to investigate and prosecute methamphetamine offenses; and
- \$5 million for each of fiscal years 2006 and 2007 for training and hiring local prosecutors to specialize in methamphetamine cases.

For HHS, S. 103 would authorize the appropriation of:

- \$2.5 million for each of fiscal years 2006 and 2007 to develop rapid-response teams to intervene on behalf of children exposed to home-based methamphetamine labs;
- \$10 million for fiscal year 2005 and such sums as necessary for each of fiscal years 2006 through 2009 to provide grants to states, local governments, and other entities for treatment of methamphetamine abuse; and
- \$3 million for fiscal year 2006 and such sums as necessary for 2007 and 2008 for grants for research, training, and technical assistance centers relating to methamphetamine abuse;

In addition, S. 103 would classify pseudoephedrine and ephedrine as controlled substances. CBO estimates that any increased administrative or investigative costs for the Drug Enforcement Administration (DEA) would not be significant.

Direct Spending

The DEA collects fees from manufacturers, distributors, importers, and other handlers of controlled substances. Classification of pseudoephedrine and ephedrine as controlled substances could result in increases in collections of those fees. However, because the agency spends those fees without appropriation, mostly in the same year, CBO estimates that S. 103 would have no significant net effect on DEA spending for this program.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

S. 103 would impose an intergovernmental mandate as defined in UMRA by preempting state laws that place less-burdensome requirements than those established in this bill on pharmaceutical dispensers for selling and storing over-the-counter drugs containing pseudoephedrine or ephedrine. In addition, the bill would impose an intergovernmental mandate on publicly owned pharmacies by requiring compliance with those sale and storage requirements. Because the preemption would not require states to take any action and because we expect that very few public pharmacies would be affected by the new requirements, CBO estimates that compliance costs would be insignificant and well below the threshold established in UMRA (\$62 million in 2005, adjusted for inflation).

State and local governments would benefit from grants that would be authorized to establish statewide programs to monitor the purchase of controlled substances used to produce methamphetamines and for a variety of programs related to substance abuse, education, and prevention. Any costs to those entities would be incurred voluntarily as a condition of receiving federal aid.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

S. 103 would impose private-sector mandates, as defined in UMRA, on individuals and persons involved in the sale and distribution of certain medications containing pseudoephedrine or ephedrine. The bill would amend the Controlled Substances Act to reclassify pseudoephedrine and ephedrine, which are found in many over-the-counter medications, as Schedule V drugs. Under the bill, the sale and distribution of products containing those substances would be regulated by the Controlled Substances Act. The bill would restrict access to pseudoephedrine and ephedrine products and limit the amount of such products that can be purchased. In addition, the bill would require persons who manufacture, deliver, distribute, or dispense controlled substances to take reasonable steps to guard against hiring of persons who have been involved in the theft or diversion of controlled substances. CBO estimates that the aggregate direct costs of complying with those

mandates would fall below the annual threshold established by UMRA for private-sector mandates (\$123 million in 2005, adjusted annually for inflation).

The bill would require individuals who purchase products containing pseudoephedrine or ephedrine to provide photo identification and sign a written log of the transaction. In addition, the bill would limit to 7.5 grams the amount of such medicines that consumers could purchase within any 30-day period. Based on information from industry and government sources, CBO expects that the direct cost for individuals to comply with the mandate would be minimal, if any.

The bill would require medicines containing pseudoephedrine or ephedrine to be sold only by a pharmacy practitioner, pharmacist, or a person under the supervision of a pharmacist. If the bill were enacted, certain retail establishments would have to move the location of pharmaceutical products containing those substances behind the counter, train employees to alert them to the new regulations, and implement new sales and hiring practices. Retailers might also reprogram cash register software to signal or block transactions exceeding the threshold, although this would not be explicitly required. According to government and industry sources, at least 13 states have already enacted laws that place restrictions on such medications, and many large retailers have voluntarily complied with the restrictions in this bill. According to those industry sources, the costs associated with relocating product, retraining, and implementing new sales and hiring practices would be minimal. Therefore, CBO estimates that the direct cost for such retailers with pharmacies to comply with the mandate would be small.

Retailers without pharmacies—such as some supermarkets, convenience stores, and gas stations—could continue to sell the medicines, but only if the retail locations have been issued an alternate place of sale license and persons selling the drugs have been issued an alternate dispenser license by the Attorney General. In addition, the bill would allow the sale of pediatric products containing pseudoephedrine or ephedrine that are primarily intended for administration to children under the age of 12 and are in liquid form. The direct cost of the mandate for retailers without pharmacies would be the cost of obtaining the appropriate licenses or the loss of net income (revenue less costs) where such licenses are not available. According to information from industry and government, a number of states have already enacted legislation restricting the sale of products containing pseudoephedrine or ephedrine for such establishments. In addition, similar products that do not contain those substances are readily available to be sold as an alternative or substitute. Thus, CBO estimates that the direct cost for those stores to comply with the mandate would fall below the annual threshold for private-sector mandates.

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