

**2009 Regular Legislative Session**  
**FISCAL ANALYSIS OF PROPOSED LEGISLATION**  
**Prepared by the Oregon Legislative Fiscal Office**

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**MEASURE NUMBER:** SB 728

**STATUS:** A Engrossed

**SUBJECT:** Classification of marijuana and methamphetamine by Board of Pharmacy and crime of manufacture or deliver Schedule IV controlled substance that causes death to any person.

**GOVERNMENT UNIT AFFECTED:** Judicial Department; Criminal Justice Commission; Department of Corrections; Public Defense Services Commission; Board of Pharmacy

**PREPARED BY:** John Terpening

**REVIEWED BY:** John Borden, Doug Wilson, and Erica Kleiner

**DATE:** April 29, 2009

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**EXPENDITURES:**

See Comments

**EFFECTIVE DATE:** January 1, 2010

**LOCAL GOVERNMENT MANDATE:** This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

**ANALYSIS:** The measure states that a person who causes death to any person through the manufacture or delivery of a Schedule IV controlled substance is guilty of a Class C felony. The measure stipulates that causation is established when the controlled substance plays a substantial role in the death of any person. The measure applies to offenses committed on or after the January 1, 2010 effective date.

The measure requires the Board of Pharmacy to classify marijuana as a controlled substance in Schedule II, III, IV or V and to classify methamphetamine in Schedule I. The measure stipulates that the classification must take place no later than 180 days after the January 1, 2010 effective date.

The fiscal impact of the measure is indeterminate but assumed to be minimal. The Judicial Department states that the number of cases relating to manufacture or delivery of a Schedule IV that resulted in death is unknown but does not expect a significant amount. The average cost per case difference between the current Class B misdemeanor of manufacture and delivery and the Class C felony of manufacture and delivery that causes death is \$344. The Department notes that the increased penalty could result in more trials or more plea bargains.

The Criminal Justice Commission (CJC) states that it is unlikely that cases involving manufacture or delivery of a Schedule IV substance would cause the death to any person and that the fiscal impact is minimal. The CJC notes that the Board of Pharmacy's classifications do not change the statutes that govern sentences for controlled substance crimes.

The Board of Pharmacy states that the fiscal impact of the measure is minimal.