

FIRST REGULAR SESSION

SENATE BILL NO. 608

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR YECKEL

Read 1st time March 1, 2001, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

2186S.011

AN ACT

To amend chapter 195, RSMo, by adding thereto four new sections relating to methamphetamine manufacture, with penalty provisions.

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

Section A. Chapter 195, RSMo, is amended by adding thereto four new sections, to be known as sections 195.515, 195.518, 195.521 and 195.524, to read as follows:

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, in a suspicious transaction shall obtain the following information from such person:

(1) A motor vehicle operator's license or other official state-issued identification which contains a photograph of the person and includes the residential or mailing address of the person, other than a post office box number;

(2) The motor vehicle license number of any motor vehicle operated by the person; and

(3) The signature of the person to whom any such substance is transferred. The person selling, transferring or otherwise furnishing any such substance shall affix his signature to the document which evidences that a sale or transfer has been made, as a witness to the signature and proper identification of the person purchasing such substance.

2. As used in this section, "suspicious transaction" means a sale or transfer to which any of the following applies:

(1) The circumstances of the sale or transfer would lead a reasonable person to believe that the substance is likely to be used for the purpose of unlawfully

manufacturing a controlled substance, based upon factors such as the amount involved, the method of payment, the method of delivery and any past dealings with any participant in the transaction; or

(2) The transaction involves payment in cash or money order in a total amount of more than two hundred dollars.

3. Within twenty-one days after obtaining the above information, the manufacturer, wholesaler, retailer or other person shall submit a report of the transaction as prescribed by the department of health, which shall include the proper identification information. Such records shall be open to law enforcement in order to investigate suspected criminal activities.

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

5. The department of health is granted authority to promulgate rules and forms necessary to facilitate the reporting requirements contained in this section, including the criteria for determining whether a transaction is suspicious, taking into consideration the recommendations in appendix A of the report to the United States Attorney General by the Suspicious Orders Task Force pursuant to the federal Comprehensive Methamphetamine Control Act of 1996.

6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

195.518. 1. It is unlawful for any person to possess more than five grams of ephedrine, its salts, optical isomers and salts of optical isomers or more than twelve grams of pseudoephedrine, its salts, optical isomers and salts of optical isomers.

2. This section shall not apply to:

(1) Any pharmacist or other authorized person acting upon the prescription of a physician, dentist, podiatrist or veterinarian; or

(2) Any physician, optometrist, dentist, podiatrist or veterinarian who administers, dispenses or furnishes a substance listed in subsection 1 of this section to his patients within the scope of his professional practice. Such administration or dispensing shall be recorded in the patient record; or

(3) Any sale, transfer, furnishing or receipt of any drug which contains any substance listed in subsection 2 of this section and which is lawfully sold, transferred,

or furnished over the counter without a prescription pursuant to the federal Food, Drug and Cosmetic Act or regulations adopted thereunder; or

(4) Any manufacturer, wholesaler or distributor licensed by the department of health who sells, transfers or otherwise furnishes any substance listed in subsection 1 of this section to a licensed pharmacy, physician, dentist, podiatrist or veterinarian; or

(5) Any person in their home or residence under circumstances consistent with typical medicinal or household use as indicated by factors including, but not limited to, storage location and possession in products in a variety of strengths, brands, types, purposes and expiration dates.

3. Possession of more than five grams of ephedrine or more than twelve grams of pseudoephedrine, or any of their salts, optical isomers and salts of optical isomers shall constitute prima facie evidence of the intent to manufacture methamphetamine or any of its analogs, or any other controlled substance in violation of this chapter.

4. A person who violates this section is guilty of a class D felony for the first offense, or a class C felony for a second or subsequent offense.

195.521. 1. It is unlawful for any person to sell, transfer, distribute or dispense any product containing ephedrine, pseudoephedrine or phenylpropanolamine, or any of their salts, optical isomers and salts of optical isomers, if the person knows that the purchaser will use the product as a precursor to manufacture methamphetamine or other controlled substance or with reckless disregard as to how the product will be used.

2. A person who violates this section is guilty of a class D felony for the first offense, or a class C felony for the second or subsequent offense.

195.524. 1. It shall be unlawful for a retail distributor, or an employee thereof, to sell, transfer, or otherwise furnish, in a single transaction:

(1) More than three packages of one or more products that he or she knows to contain ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers; or

(2) Any single package of any product that he or she knows to contain ephedrine, pseudoephedrine, or phenylpropanolamine, which contains more than ninety-six pills, tablets, gelcaps, capsules, or other individual units; or more than nine grams of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, or a combination of any of these substances.

2. It shall be unlawful for any person, other than a person or entity described in subsection 1 of this section, to purchase, acquire or otherwise receive in a single transaction:

(1) More than three packages of one or more products that he or she knows to contain ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or

salts of isomers; or

(2) Any single package of any product that he or she knows to contain ephedrine, pseudoephedrine, or phenylpropanolamine, which contains more than ninety-six pills, tablets, gelcaps, capsules, or other individual units; or more than nine grams of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, or a combination of any of these substances.

3. A violation of this section is a class A misdemeanor.

4. This section shall not apply to:

(1) Pediatric products primarily intended for administration to children under twelve years of age, according to label instructions, either:

(a) In solid dosage form whose individual dosage units do not exceed fifteen milligrams of ephedrine, pseudoephedrine, or phenylpropanolamine; or

(b) In liquid form whose recommended dosage, according to label instructions, does not exceed fifteen milligrams of ephedrine, pseudoephedrine, or phenylpropanolamine per five milliliters of liquid product;

(2) Pediatric liquid products primarily intended for administration to children under two years of age for which the recommended dosage does not exceed two milliliters and the total package content does not exceed one fluid ounce; or

(3) 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.

5. As used in this section, the following terms mean:

(1) "Retail distributor", a grocery store, general merchandise store, drugstore, convenience store or other related entity, the activities of which, as a distributor of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine products, are limited exclusively to the sale of ephedrine, pseudoephedrine, phenylpropanolamine products for personal use both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales. Retail distributor shall include any person or entity that makes a direct sale or has knowledge of the sale, but does not include any manager, supervisor or owner not present and not otherwise aware of the sale, nor shall it include the parent company of that entity if the company is not involved in direct sales regulated by this chapter;

(2) "Sale for personal use", the sale in a single transaction to an individual customer for a legitimate medical use of a product containing ephedrine, pseudoephedrine, or phenylpropanolamine in dosages at or below that specified in subsection 4 of this section. Sale for personal use also includes the sale of those

products to employers to be dispensed to employees from first-aid kits or medicine chests.

T

Unofficial

Bill

Copy