

By Senator Saunders

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1 A bill to be entitled

2 An act relating to the retail sale of ephedrine and
3 related compounds; creating s. 893.1497, F.S.; providing
4 definitions; requiring each retail distributor to maintain
5 a written or electronic log or receipts of transactions
6 involving the sale of ephedrine and related compounds;
7 requiring a person who is purchasing ephedrine or related
8 compounds for personal use to produce current and valid
9 proof of identity and proof of age and to sign a written
10 log, an electronic log, or a receipt to document the
11 transaction; requiring the Department of Law Enforcement
12 to provide each retail distributor access to a real-time
13 electronic logbook for the purpose of entering transaction
14 data, subject to available funding; authorizing the
15 department to contract with a private vendor to establish
16 the electronic logbook system; prohibiting the department
17 from charging fees to retail distributors; identifying the
18 persons and entities that have authority to access the
19 electronic logbook; requiring the department to destroy
20 the record of an ephedrine or related compound transaction
21 after a specified time; providing that a retail
22 distributor who in good faith releases information in a
23 logbook to a federal, state, or local law enforcement
24 authority is immune from civil liability; providing an
25 exception; providing that a person who knowingly releases
26 or discloses to any unauthorized person any confidential
27 information, who obtains confidential information for a
28 purpose not authorized by this section, or who uses or
29 shares confidential information for any purpose other than

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30 to ensure compliance with the act commits a misdemeanor of
31 the first degree; providing criminal penalties; providing
32 an effective date.

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34 Be It Enacted by the Legislature of the State of Florida:

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36 Section 1. Section 893.1497, Florida Statutes, is created
37 to read:

38 893.1497 Real-time electronic logbook; sales records;
39 purchaser's proof of identity and age.--

40 (1) As used in this section, the term:

41 (a) "Department" means the Department of Law Enforcement.

42 (b) "Ephedrine", "pseudoephedrine," and
43 "phenylpropanolamine" mean any product containing ephedrine,
44 pseudoephedrine, or phenylpropanolamine or any of their salts,
45 isomers, or salts of isomers, alone or in a mixture.

46 (b) "Proof of age" and "proof of identity" mean any
47 document issued by a governmental agency which contains a
48 description of the person or a photograph of the person, or both,
49 and gives the person's date of birth. Proof of age and proof of
50 identity include, but are not limited to, a passport, military
51 identification card, or driver's license.

52 (c) "Retail distributor" means a pharmacy, grocery store,
53 general merchandise store, drugstore, convenience store, or other
54 related entity the activities of which, as a distributor of
55 ephedrine, pseudoephedrine, or phenylpropanolamine products, are
56 limited exclusively to the sale for personal use of ephedrine,
57 pseudoephedrine, or phenylpropanolamine products, both in number
58 of sales and volume of sales, directly to walk-in customers or in

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59 face-to-face transactions by direct sales. A retail distributor
60 includes any person or entity that makes a direct sale or has
61 knowledge of the direct sale. A retail distributor does not
62 include:

63 1. A manager, supervisor, or owner who is not present and
64 not otherwise aware of the direct sale; or

65 2. The parent company of a pharmacy, grocery store, general
66 merchandise store, drugstore, convenience store, or other related
67 entity if the parent company is not involved in direct sales
68 regulated by this chapter.

69 (d) "Sale for personal use" or "purchase for personal use"
70 means the sale in a single transaction to an individual customer
71 for a legitimate medical use of a product containing ephedrine,
72 pseudoephedrine, or phenylpropanolamine in a quantity at or below
73 that specified in s. 893.1495, and includes the sale of those
74 products to an employer to be dispensed to employees from a
75 first-aid kit or medicine chest.

76 (2) A retail distributor must:

77 (a) Maintain a written or electronic log or receipts of
78 transactions involving the sale of ephedrine, pseudoephedrine, or
79 phenylpropanolamine; and

80 (b) Enter any transaction required to be maintained by this
81 section into the real-time electronic logbook maintained by the
82 department.

83 (3) A person purchasing for personal use, receiving, or
84 otherwise acquiring ephedrine, pseudoephedrine, or
85 phenylpropanolamine must:

86 (a) Produce current and valid proof of identity and proof
87 of age; and

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88 (b) Sign a written log, an electronic log, or a receipt
89 that documents the date of the transaction, the name of the
90 person, a description of the proof of age and identity, and the
91 quantity of ephedrine, pseudoephedrine, or phenylpropanolamine
92 purchased, received, or otherwise acquired.

93 (4) The requirements of subsections (2) and (3) are
94 satisfied if the retail distributor enters the required
95 information into a centralized real-time electronic logbook
96 maintained by the department.

97 (5)(a) Subject to available funding, the department shall
98 provide each retail distributor in this state access to a
99 centralized real-time electronic logbook for the purpose of
100 entering any transaction data required by this section into the
101 centralized real-time electronic logbook.

102 (b) The centralized real-time electronic logbook must have
103 the capability to calculate state and federal limitations for the
104 purchase of ephedrine, pseudoephedrine, and phenylpropanolamine.

105 (c) The department may contract with a private vendor to
106 implement this section.

107 (d) The department may not charge a retail distributor any
108 fee:

109 1. To support the establishment or maintenance of the real-
110 time electronic logbook; or

111 2. For any computer software required to be installed as
112 part of the real-time electronic logbook.

113 (6) The department may allow access to the centralized
114 real-time electronic logbook to:

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115 (a) Any person authorized to prescribe or dispense products
116 containing ephedrine, pseudoephedrine, or phenylpropanolamine for
117 the purpose of providing medical care or pharmaceutical care;

118 (b) A local, state, or federal law enforcement official or
119 agency or a local, state, or federal prosecutor;

120 (c) A local, state, or federal official who requests access
121 for the purpose of facilitating a product recall necessary for
122 the protection of the public health and safety; or

123 (d) The Board of Pharmacy for the purpose of investigating
124 a suspicious transaction.

125 (7) The department shall destroy any record of a
126 transaction maintained in the centralized real-time electronic
127 logbook no later than 2 years after the date the transaction was
128 recorded into the centralized real-time electronic logbook unless
129 the transaction record is being used in an ongoing criminal
130 investigation or criminal proceeding.

131 (8) (a) A retail distributor in this state is not liable
132 civilly for a sale of ephedrine, pseudoephedrine, or
133 phenylpropanolamine which occurs at another retail distributor in
134 this state.

135 (b) A retail distributor who in good faith releases
136 information in a logbook to a federal, state, or local law
137 enforcement authority is immune from civil liability for the
138 release unless the release constitutes gross negligence or
139 intentional, wanton, or willful misconduct.

140 (9) A person who:

141 (a) Knowingly releases or discloses to any unauthorized
142 person any confidential information collected and maintained
143 under this section;

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144 (b) Obtains confidential information for a purpose not
145 authorized by this section; or

146 (c) Uses or shares confidential information for any purpose
147 other than to ensure compliance with this section,

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149 commits a misdemeanor of the first degree, punishable as provided
150 in s.775.082 or s. 775.083.

151 Section 2. This act shall take effect July 1, 2008.