



681308

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/18/2010	.	
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The Committee on Criminal Justice (Thrasher) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 893.1495, Florida Statutes, is amended to read:

893.1495 Retail sale of ephedrine and related compounds.—

(1) For purposes of this section, the term "ephedrine or related compounds" means ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers.



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13 (2)-(1) A No person may not shall knowingly obtain or
14 deliver to an individual in any single retail over-the-counter
15 sale any number of packages of any nonprescription compound,
16 mixture, or preparation drug containing a sole active ingredient
17 that contains a combined total of more than 9 base grams of
18 ephedrine or related compounds in excess of the following
19 amounts:

20 (a) In any single day, any number of packages that contain
21 a total of 3.6 grams of ephedrine or related compounds;

22 (b) In any single retail, over-the-counter sale, three
23 packages, regardless of weight, containing ephedrine or related
24 compounds; or

25 (c) In any 30-day period, in any number of retail, over-
26 the-counter sales, a total of 9 grams or more of ephedrine or
27 related compounds, pseudoephedrine, phenylpropanolamine, or any
28 of their salts, optical isomers, or salts of optical isomers, or
29 more than three packages in any single retail over-the-counter
30 sale, regardless of weight, containing any such sole active
31 ingredient.

32 (3)-(2) A No person may not shall knowingly display and
33 offer for retail sale packages of any nonprescription compound,
34 mixture, or preparation containing drug having a sole active
35 ingredient of ephedrine or related compounds, pseudoephedrine,
36 phenylpropanolamine, or any of their salts or optical isomers
37 other than behind a checkout counter where the public is not
38 permitted or other such location that is not otherwise
39 accessible to the general public.

40 (4)-(3) A No person who is the owner or primary operator of
41 a retail outlet where any nonprescription compound, mixture, or



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42 preparation containing ephedrine or related compounds is,
43 ~~pseudoephedrine, or phenylpropanolamine products~~ are available
44 for sale may not shall knowingly allow an employee to engage in
45 the retail sale of such compound, mixture, or preparation
46 ~~products~~ unless the employee has completed an employee training
47 program that shall include, at a minimum, basic instruction on
48 state and federal regulations relating to the sale and
49 distribution of such compounds, mixtures, or preparations
50 ~~products~~.

51 (5) (a) Any person purchasing, receiving, or otherwise
52 acquiring any nonprescription compound, mixture, or preparation
53 containing any detectable quantity of ephedrine or related
54 compounds must:

55 1. Be at least 18 years of age.

56 2. Produce a government-issued photo identification showing
57 his or her name, date of birth, address, and photo
58 identification number.

59 3. Sign his or her name on a record of the purchase, either
60 on paper or on an electronic signature capture device.

61 (b) Department of Law Enforcement shall approve an
62 electronic recordkeeping system for the purpose of recording and
63 monitoring the real time purchase of products containing
64 ephedrine or related compounds and for the purpose of monitoring
65 this information in order to prevent or investigate illegal
66 purchases of these products. The approved electronic
67 recordkeeping system shall be provided to a pharmacy or retailer
68 without any additional cost or expense. A pharmacy or retailer
69 may request an exemption from electronic reporting from the
70 Department of Law Enforcement if the pharmacy or retailer lacks



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71 the technology to access the electronic recordkeeping system and
72 such pharmacy or retailer maintains a sales volume of less than
73 72 grams of ephedrine or related compounds in a thirty day
74 period. The electronic recordkeeping system shall record the
75 following:

76 1. Date and time of the transaction.

77 2. Name, date of birth, address, and photo identification
78 number of the purchaser, as well as the type of identification
79 and the government of issuance.

80 3. The number of packages purchased, total grams per
81 package, and name of the compound, mixture, or preparation
82 containing ephedrine or related compounds.

83 4. The signature of the purchaser, or a unique number
84 relating the transaction to a paper signature maintained at the
85 retail premises.

86 (c) The electronic recordkeeping system shall provide for:

87 1. Real-time tracking of nonprescription over-the-counter
88 sales under this section.

89 2. Blocking of nonprescription over-the-counter sales in
90 excess of those allowed by the laws of this state or federal
91 law.

92 (6) A nonprescription compound, mixture, or preparation
93 containing any quantity of ephedrine or related compounds may
94 not be sold over the counter unless reported to an electronic
95 recordkeeping system approved by the Department of Law
96 Enforcement.

97 (7) Prior to completing a transaction a pharmacy or
98 retailer distributing products containing ephedrine or related
99 compounds to consumers in this state shall submit all required



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100 data into an electronic recordkeeping system approved by the
101 Department of Law Enforcement either at the point of sale or
102 through an interface with the electronic recordkeeping system,
103 unless granted an exemption by the Department of Law Enforcement
104 pursuant to subparagraph (5) (b) .

105 (8) The data submitted to the electronic recordkeeping
106 system must be retained within the system for no less than two
107 years from the date of entry.

108 (9) ~~(4)~~ The requirements of this section relating to the
109 marketing, sale, or distribution of products containing
110 ephedrine or related compounds supersedes, ~~pseudoephedrine, or~~
111 ~~phenylpropanolamine products shall supersede~~ any local ordinance
112 or regulation passed by a county, municipality, or other local
113 governmental authority.

114 (10) This section does not apply to:

115 (a) Licensed manufacturers manufacturing and lawfully
116 distributing products in the channels of commerce.

117 (b) Wholesalers lawfully distributing products in the
118 channels of commerce.

119 (c) Health care facilities licensed under chapter 395.

120 (d) Licensed long-term care facilities.

121 (e) Government-operated health departments.

122 (f) Physicians' offices.

123 (g) Publicly operated prisons, jails, or juvenile
124 correctional facilities or private adult or juvenile
125 correctional facilities under contract with the state.

126 (h) Public or private educational institutions maintaining
127 health care programs.

128 (i) Government-operated or industry-operated medical



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129 facilities serving employees of the government or industry
130 operating them.

131 (11)(5) Any individual who violates subsection (1),
132 subsection (2), ~~or~~ subsection (3), or subsection (4) commits:

133 (a) For a first offense, a misdemeanor of the second
134 degree, punishable as provided in s. 775.083.

135 (b) For a second offense, a misdemeanor of the first
136 degree, punishable as provided in s. 775.082 or s. 775.083.

137 (c) For a third or subsequent offense, a felony of the
138 third degree, punishable as provided in s. 775.082, s. 775.083,
139 or s. 775.084.

140 (12) Information contained within the electronic
141 recordkeeping system shall be disclosed in a manner authorized
142 by state or federal law.

143 (13) A person who sells any product containing ephedrine or
144 related compounds who in good faith complies with the
145 requirements of this section is immune from civil liability for
146 the release of the information.

147 (14) The Department of Law Enforcement shall contract with
148 a private third-party administrator to implement the electronic
149 recordkeeping system required by this section.

150 (15) The Department of Law Enforcement shall promulgate
151 rules necessary to implement this section.

152 Section 2. This act shall take effect July 1, 2010 and
153 shall be implemented by January 1, 2011.

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156 ===== T I T L E A M E N D M E N T =====

157 And the title is amended as follows:



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Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to the sale of ephedrine or related
compounds; amending s. 893.1495, F.S.; providing a
definition; prohibiting obtaining or delivering to an
individual in a retail sale any nonprescription
compound, mixture, or preparation containing ephedrine
or related compounds in excess of specified amounts;
revising provisions relating to retail display of
products containing ephedrine or related compounds;
revising provisions relating to retail employee
training; requiring a purchaser of a nonprescription
compound, mixture, or preparation containing any
detectable quantity of ephedrine or related compounds
to meet specified requirements; requiring use of an
electronic recordkeeping mechanism approved by the
Department of Law Enforcement for such transactions to
record specified information; providing for exemptions
from the electronic recordkeeping requirement;
revising language concerning local ordinances or
regulations; providing exemptions for certain
entities; conforming language concerning criminal
penalties for violations; providing an effective date.