

By Senator Baker

20-00357C-10

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1 A bill to be entitled
2 An act relating to the sale of methamphetamine
3 pharmaceutical products; defining terms; prohibiting
4 the retail sale of more than a specified amount of
5 ephedrine base, pseudoephedrine base, or
6 phenylpropanolamine base contained in a scheduled
7 listed chemical product; providing criminal penalties;
8 prohibiting the retail purchase within a specified
9 period of more than a certain amount of ephedrine
10 base, pseudoephedrine base, or phenylpropanolamine
11 base; providing criminal penalties; providing for the
12 recordation of sales of scheduled listed chemical
13 products; requiring each seller of scheduled listed
14 chemical products to maintain a logbook to record
15 sales; providing for the seller and the purchaser to
16 perform certain specified duties involving the
17 logbook; providing that information in the logbook may
18 be disclosed under certain circumstances; providing
19 that a purchaser who knowingly or willfully provides
20 false or misleading representations to a seller or
21 includes such information in a logbook commits a
22 felony of the third degree; providing criminal
23 penalties; providing for a methamphetamine monitoring
24 system within the Department of Law Enforcement;
25 providing legislative intent; defining terms;
26 requiring a pharmacy to maintain a written or
27 electronic log or receipt of a transaction involving
28 the sale of products containing ephedrine,
29 pseudoephedrine, or phenylpropanolamine; providing

20-00357C-10

20101050__

30 criminal penalties; providing requirements for the
31 methamphetamine monitoring system; authorizing certain
32 persons to have access to specified information
33 contained in the methamphetamine monitoring system;
34 requiring the Department of Law Enforcement to adopt
35 rules; providing an effective date.
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37 Be It Enacted by the Legislature of the State of Florida:
38

39 Section 1. Precursor listed chemicals; restrictions on
40 sales quantity; penalties.-

41 (1) As used in this section, the term "scheduled listed
42 chemical product" has the same meaning as provided in 21 U.S.C.
43 s. 802.

44 (2) (a) A person may not sell to a purchaser at retail
45 ephedrine base, pseudoephedrine base, or phenylpropanolamine
46 base in a scheduled listed chemical product if:

47 1. The quantity of the base exceeds a daily amount of 3.6
48 grams, without regard to the number of transactions; or

49 2. The product is in a nonliquid form, including gel caps,
50 unless the product is packaged in blister packs, with each
51 blister pack containing not more than two dosage units, or, if
52 the use of blister packs is technically infeasible, the product
53 is packaged in unit-dose packets or pouches.

54 (b) A person who knowingly or willfully violates paragraph
55 (a) commits a felony of the third degree, punishable as provided
56 in s. 775.082, s. 775.083, or s. 775.084, Florida Statutes.

57 (3) (a) A person may not knowingly or willfully purchase at
58 retail during a 30-day period more than 9 grams of ephedrine

20-00357C-10

20101050__

59 base, pseudoephedrine base, or phenylpropanolamine base in a
60 scheduled listed chemical product.

61 (b) A person who knowingly or willfully violates paragraph
62 (a) commits a felony of the third degree, punishable as provided
63 in s. 775.082, s. 775.083, or s. 775.084, Florida Statutes. A
64 second or subsequent violation of paragraph (a) is a felony of
65 the second degree, punishable as provided in s. 775.082, s.
66 775.083, or s. 775.084, Florida Statutes.

67 Section 2. Recordation of sales of scheduled listed
68 chemical products; maintenance of a logbook to record sales;
69 disclosure of information.-

70 (1) As used in this section, the term "scheduled listed
71 chemical product" has the same meaning as provided in 21 U.S.C.
72 s. 802.

73 (2) A person who sells a scheduled listed chemical product
74 must maintain a written or electronic logbook of each such sale.

75 (a) The logbook must identify each product sold by name of
76 the product, the quantity sold, the name and address of each
77 purchaser, and the date and time of the sale.

78 (b) The person who sells a scheduled listed chemical
79 product must maintain each entry in the logbook for not less
80 than 2 years after the date on which the entry is made.

81 (3) The person who sells any scheduled listed chemical
82 product:

83 (a) May not sell a scheduled listed chemical product unless
84 the prospective purchaser:

- 85 1. Presents an identification card that provides a
86 photograph and is issued by a state or the Federal Government;
87 2. Enters in the logbook his or her name, address, and the

20-00357C-10

20101050

88 date and time of the sale; and

89 3. Signs the logbook.

90 (b) Must determine that the name of the purchaser entered
91 into the logbook corresponds to the name provided on the
92 identification document and that the date and time recorded for
93 the sale are correct.

94 (4) This section does not apply to any purchase by an
95 individual of a single sales package if that package contains
96 not more than 60 milligrams of pseudoephedrine.

97 (5) (a) In order to protect the privacy of individuals who
98 purchase scheduled listed chemical products, the disclosure of
99 information in logbooks is restricted as follows:

100 1. The information must be disclosed as appropriate to
101 state and local law enforcement agencies.

102 2. The information in the logbooks may not be accessed,
103 used, or shared for any purpose other than to ensure compliance
104 with this section or to facilitate a product recall to protect
105 public health and safety.

106 (b) A person who sells a scheduled listed chemical product
107 who in good faith releases information in a logbook to federal,
108 state, or local law enforcement agencies is immune from civil
109 liability for the release of the information unless the release
110 constitutes gross negligence or intentional, wanton, or willful
111 misconduct.

112 (6) A purchaser who knowingly or willfully provides false
113 or misleading representations to the seller or includes such
114 false or misleading representations in a logbook commits a
115 felony of the third degree, punishable as provided in s.
116 775.082, s. 775.083, or s. 775.084, Florida Statutes.

20-00357C-10

20101050

117 Section 3. Intent; methamphetamine monitoring system;
118 penalties.-

119 (1) It is the intent of the Legislature to reduce and
120 prevent the operation of clandestine methamphetamine
121 laboratories and the contamination of private property by such
122 laboratories in this state. At this time, the state does not
123 have a centralized real-time electronic logbook database that
124 records purchases of products containing ephedrine,
125 pseudoephedrine, or phenylpropanolamine. The Legislature
126 believes that the absence of such a centralized electronic
127 database in this state permits and encourages criminals to
128 illegally purchase large quantities of precursor chemical
129 products for the production of methamphetamine by going from
130 store to store and, sometimes, from state to state. The
131 Legislature believes that law enforcement officials need this
132 critical tool to combat methamphetamine production in this
133 state. It is the intent of the Legislature that electronic
134 documentation of purchases be used to stop the ever-increasing
135 threat posed by the illegal production of methamphetamine. Other
136 states are adopting similar measures, thereby encouraging
137 methamphetamine producers to relocate to other states which are
138 unable to track their unlawful activities. The Legislature
139 believes that immediate action is necessary to protect the
140 children of this state from the increasing harm caused by
141 methamphetamine producers.

142 (2) As used in this section, the term:

143 (a) "Methamphetamine monitoring system" means a real-time
144 electronic logbook database system operated and maintained by
145 the Department of Law Enforcement for the purpose of recording

20-00357C-10

20101050

146 information relating to the purchase of products containing
147 ephedrine, pseudoephedrine, or phenylpropanolamine, and for the
148 purpose of monitoring this information in order to prevent
149 illegal purchases of these products.

150 (b) "Pharmacy" has the same meaning as provided in s.
151 499.003, Florida Statutes.

152 (3) There is created within the Department of Law
153 Enforcement a methamphetamine monitoring system for the purpose
154 of recording and monitoring the purchase of products containing
155 ephedrine, pseudoephedrine, or phenylpropanolamine.

156 (a) Each pharmacy dispensing products containing ephedrine,
157 pseudoephedrine, or phenylpropanolamine to consumers in this
158 state shall maintain a written or electronic log or receipt of
159 each transaction involving the sale of such products. The
160 pharmacy shall also enter into the methamphetamine monitoring
161 system such information pertaining to the transaction as is
162 required by this section and the department, including the name
163 of the purchaser, the date of purchase, and the quantity
164 purchased. A retailer other than a pharmacy may not make retail
165 sales or distributions of products containing ephedrine,
166 pseudoephedrine, or phenylpropanolamine to a consumer.

167 (b) A person purchasing, receiving, or otherwise acquiring
168 a product containing ephedrine, pseudoephedrine, or
169 phenylpropanolamine must be 18 years of age or older and must
170 produce current, valid photographic identification and sign a
171 written or electronic log or receipt that documents the date of
172 the transaction, the name of the person, and the quantity of the
173 product containing ephedrine, pseudoephedrine, or
174 phenylpropanolamine which was purchased, received, or otherwise

20-00357C-10

20101050__

175 acquired.

176 (c) A person who violates any provision of this subsection
177 commits a misdemeanor of the first degree, punishable as
178 provided in s. 775.082 or s. 775.083, Florida Statutes. Each
179 separate transaction for which required records are not
180 generated or maintained constitutes a separate offense.

181 (4) (a) Subject to available funding, the department shall
182 provide pharmacies dispensing products in this state access to a
183 real-time electronic logbook system, to be the designated
184 methamphetamine monitoring system, for the purpose of entering
185 into the electronic database any transaction required to be
186 reported by this section, including the sale and amount
187 purchased of any product containing ephedrine, pseudoephedrine,
188 or phenylpropanolamine.

189 (b) The methamphetamine monitoring system must have the
190 capability to calculate both state and federal purchase
191 limitations for ephedrine, pseudoephedrine, or
192 phenylpropanolamine; to match similar identification
193 information; and to alert pharmacies of potential illegal
194 purchases. Except as authorized by this section, the department
195 may not disclose any information entered, collected, recorded,
196 transmitted, or maintained in the methamphetamine monitoring
197 system.

198 (c) The department shall provide access to information
199 maintained in the methamphetamine monitoring system to:

200 1. Any person authorized to prescribe or dispense products
201 containing ephedrine, pseudoephedrine, or phenylpropanolamine
202 for the purpose of providing medical care or pharmaceutical
203 care;

20-00357C-10

20101050__

204 2. Any local, state, or federal law enforcement official, a
205 state attorney, or a United States attorney;

206 3. A local, state, or federal official who requests access
207 to the monitoring system for the purpose of facilitating a
208 product recall necessary for the protection of the public health
209 and safety; and

210 4. The Board of Pharmacy for the purpose of investigating
211 misconduct or a suspicious transaction committed by a pharmacy,
212 an employee of a pharmacy, or a pharmacist.

213 (5) The department shall adopt rules necessary to
214 administer this section.

215 Section 4. This act shall take effect July 1, 2010.