

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

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

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

27           893.1495   Retail sale of ephedrine and related compounds.—  
 28           (1) For purposes of this section, the term "ephedrine or

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29 related compounds" means ephedrine, pseudoephedrine,  
30 phenylpropanolamine, or any of their salts, optical isomers, or  
31 salts of optical isomers.

32 (2)-(1) A No person may not shall knowingly obtain or  
33 deliver to an individual in any single retail over-the-counter  
34 sale any number of packages of any nonprescription compound,  
35 mixture, or preparation drug containing a sole active ingredient  
36 that contains a combined total of more than 9 base grams of  
37 ephedrine or related compounds in excess of the following  
38 amounts:

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

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

44 (c) In any 30-day period, in any number of retail, over-  
45 the-counter sales, a total of 9 grams or more of ephedrine or  
46 related compounds, pseudoephedrine, phenylpropanolamine, or any  
47 of their salts, optical isomers, or salts of optical isomers, or  
48 more than three packages in any single retail over the counter  
49 sale, regardless of weight, containing any such sole active  
50 ingredient.

51 (3)-(2) A No person may not shall knowingly display and  
52 offer for retail sale packages of any nonprescription compound,  
53 mixture, or preparation containing drug having a sole active  
54 ingredient of ephedrine or related compounds, pseudoephedrine,  
55 phenylpropanolamine, or any of their salts or optical isomers  
56 other than behind a checkout counter where the public is not

57 permitted or other such location that is not otherwise  
 58 accessible to the general public.

59 ~~(4)(3)~~ A ~~No~~ person who is the owner or primary operator of  
 60 a retail outlet where any nonprescription compound, mixture, or  
 61 preparation containing ephedrine or related compounds is,  
 62 ~~pseudoephedrine, or phenylpropanolamine products~~ are available  
 63 for sale may not shall knowingly allow an employee to engage in  
 64 the retail sale of such compound, mixture, or preparation  
 65 ~~products~~ unless the employee has completed an employee training  
 66 program that shall include, at a minimum, basic instruction on  
 67 state and federal regulations relating to the sale and  
 68 distribution of such compounds, mixtures, or preparations  
 69 ~~products~~.

70 (5) (a) Any person purchasing, receiving, or otherwise  
 71 acquiring any nonprescription compound, mixture, or preparation  
 72 containing any detectable quantity of ephedrine or related  
 73 compounds must:

- 74 1. Be at least 18 years of age.
- 75 2. Produce a government-issued photo identification  
 76 showing his or her name, date of birth, address, and photo  
 77 identification number.
- 78 3. Sign his or her name on a record of the purchase,  
 79 either on paper or on an electronic signature capture device.

80 (b) An electronic recordkeeping mechanism approved by the  
 81 Department of Law Enforcement shall be used and shall record the  
 82 following:

- 83 1. Date and time of the transaction.
- 84 2. Name, date of birth, address, and photo identification

85 number of the purchaser, as well as the type of identification  
 86 and the government of issuance.

87 3. The amount and name of the compound, mixture, or  
 88 preparation containing ephedrine or related compounds.

89 4. The signature of the purchaser, or a unique number  
 90 relating the transaction to a paper signature maintained at the  
 91 retail premises.

92 (c) The electronic recordkeeping mechanism shall provide  
 93 for:

94 1. Real-time tracking of nonprescription over-the counter  
 95 sales under this section.

96 2. Blocking of nonprescription over-the-counter sales in  
 97 excess of those allowed by the laws of this state or federal  
 98 law.

99 (6) A nonprescription compound, mixture, or preparation  
 100 containing any quantity of ephedrine or related compounds may  
 101 not be sold over the counter unless reported to an electronic  
 102 recordkeeping system approved by the Department of Law  
 103 Enforcement.

104 (7) Any pharmacy or other retailer may request an  
 105 exemption from electronic reporting from the Department of Law  
 106 Enforcement. The department shall grant an exemption upon a  
 107 reasonable showing of imposition of additional costs to the  
 108 requester.

109 (8)-(4) The requirements of this section relating to the  
 110 marketing, sale, or distribution of products containing  
 111 ephedrine or related compounds supersedes, pseudoephedrine, or  
 112 phenylpropanolamine products shall supersede any local ordinance

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113 or regulation passed by a county, municipality, or other local  
114 governmental authority.

115 (9) This section does not apply to:

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

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

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

121 (d) Licensed long-term care facilities.

122 (e) Government-operated health departments.

123 (f) Physicians' offices.

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

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

129 (i) Government-operated or industry-operated medical  
130 facilities serving employees of the government or industry  
131 operating them.

132 (10)-(5) Any individual who violates ~~subsection (1),~~  
133 subsection (2), or subsection (3), or subsection (4) commits:

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

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

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

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Section 2. This act shall take effect July 1, 2010.