

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 system approved by the Department of Law Enforcement for
16 such transactions to monitor and record specified
17 information; providing for exemptions from the electronic
18 recordkeeping requirement; requiring information submitted
19 to the system to be retained for a specified period;
20 revising language concerning local ordinances or
21 regulations; providing exemptions for certain entities;
22 conforming language concerning criminal penalties for
23 violations; providing for disclosure of information in the
24 system under certain provisions; providing immunity from
25 civil liability for release of certain information in
26 compliance with electronic recordkeeping requirements;
27 requiring the department to contract with a third party to

28 | implement the system; providing for rulemaking; providing
 29 | a date of implementation; providing an effective date.

30 |

31 | Be It Enacted by the Legislature of the State of Florida:

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

35 | 893.1495 Retail sale of ephedrine and related compounds.-

36 | (1) As used in this section, the term "ephedrine or
 37 | related compounds" means ephedrine, pseudoephedrine,
 38 | phenylpropanolamine, or any of their salts, optical isomers, or
 39 | salts of optical isomers.

40 | (2)-(1) A ~~Ne~~ person may not ~~shall~~ knowingly obtain or
 41 | deliver to an individual in any ~~single~~ retail over-the-counter
 42 | sale any number of packages of any nonprescription compound,
 43 | mixture, or preparation ~~drug~~ containing a sole active ingredient
 44 | that contains a combined total of more than 9 base grams of
 45 | ephedrine or related compounds in excess of the following
 46 | amounts:

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

49 | (b) In any single retail, over-the-counter sale, three
 50 | packages, regardless of weight, containing ephedrine or related
 51 | compounds; or

52 | (c) In any 30-day period, in any number of retail, over-
 53 | the-counter sales, a total of 9 grams or more of ephedrine or
 54 | related compounds, pseudoephedrine, phenylpropanolamine, or any
 55 | of their salts, optical isomers, or salts of optical isomers, or

56 ~~more than three packages in any single retail over the counter~~
 57 ~~sale, regardless of weight, containing any such sole active~~
 58 ~~ingredient.~~

59 (3)~~(2)~~ A ~~No~~ person may not ~~shall~~ knowingly display and
 60 offer for retail sale ~~packages of any~~ nonprescription compound,
 61 mixture, or preparation containing drug having a sole active
 62 ingredient of ephedrine or related compounds, ~~pseudoephedrine,~~
 63 ~~phenylpropanolamine, or any of their salts or optical isomers~~
 64 other than behind a checkout counter where the public is not
 65 permitted or other such location that is not otherwise
 66 accessible to the general public.

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

78 (5) (a) Any person purchasing, receiving, or otherwise
 79 acquiring any nonprescription compound, mixture, or preparation
 80 containing any detectable quantity of ephedrine or related
 81 compounds must:

- 82 1. Be at least 18 years of age.
- 83 2. Produce a government-issued photo identification

84 showing his or her name, date of birth, address, and photo
 85 identification number.

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

88 (b) The Department of Law Enforcement shall approve an
 89 electronic recordkeeping system to record and monitor in real
 90 time the purchase of products containing ephedrine or related
 91 compounds in order to prevent or investigate illegal purchases
 92 of these products. The approved electronic recordkeeping system
 93 shall be provided to a pharmacy or retailer without any
 94 additional cost or expense to the pharmacy or retailer. A
 95 pharmacy or retailer may request an exemption from electronic
 96 reporting from the Department of Law Enforcement if the pharmacy
 97 or retailer lacks the technology to access the electronic
 98 recordkeeping system and such pharmacy or retailer maintains a
 99 sales volume of less than 72 grams of ephedrine or related
 100 compounds in a 30-day period. The electronic recordkeeping
 101 system shall record the following:

102 1. The date and time of the transaction.

103 2. The name, date of birth, address, and photo
 104 identification number of the purchaser, as well as the type of
 105 identification and the government of issuance.

106 3. The number of packages purchased, the total grams per
 107 package, and the name of the compound, mixture, or preparation
 108 containing ephedrine or related compounds.

109 4. The signature of the purchaser, or a unique number
 110 relating the transaction to a paper signature maintained at the
 111 retail premises.

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

113 1. Real-time monitoring of nonprescription over-the
 114 counter sales under this section.

115 2. Blocking of nonprescription over-the-counter sales in
 116 excess of those allowed by the laws of this state or federal
 117 law.

118 (6) A nonprescription compound, mixture, or preparation
 119 containing any quantity of ephedrine or related compounds may
 120 not be sold over the counter unless reported to an electronic
 121 recordkeeping system approved by the Department of Law
 122 Enforcement.

123 (7) Prior to completing a transaction, a pharmacy or
 124 retailer distributing products containing ephedrine or related
 125 compounds to consumers in this state shall submit all required
 126 data into the electronic recordkeeping system approved by the
 127 Department of Law Enforcement either at the point of sale or
 128 through an interface with the electronic recordkeeping system,
 129 unless granted an exemption by the Department of Law Enforcement
 130 under paragraph (5) (b).

131 (8) The data submitted to the electronic recordkeeping
 132 system must be retained within the system for at least 2 years
 133 after the date of entry.

134 (9)-(4) The requirements of this section relating to the
 135 marketing, sale, or distribution of products containing
 136 ephedrine or related compounds, pseudoephedrine, or
 137 ~~phenylpropanolamine products shall~~ supersede any local ordinance
 138 or regulation passed by a county, municipality, or other local
 139 governmental authority.

140 (10) This section does not apply to:
 141 (a) Licensed manufacturers manufacturing and lawfully
 142 distributing products in the channels of commerce.
 143 (b) Wholesalers lawfully distributing products in the
 144 channels of commerce.
 145 (c) Health care facilities licensed under chapter 395.
 146 (d) Licensed long-term care facilities.
 147 (e) Government-operated health departments.
 148 (f) Physicians' offices.
 149 (g) Publicly operated prisons, jails, or juvenile
 150 correctional facilities or private adult or juvenile
 151 correctional facilities under contract with the state.
 152 (h) Public or private educational institutions maintaining
 153 health care programs.
 154 (i) Government-operated or industry-operated medical
 155 facilities serving employees of the government or industry
 156 operating them.
 157 (11)(5) Any individual who violates ~~subsection (1)~~,
 158 subsection (2), ~~or~~ subsection (3), or subsection (4) commits:
 159 (a) For a first offense, a misdemeanor of the second
 160 degree, punishable as provided in s. 775.083.
 161 (b) For a second offense, a misdemeanor of the first
 162 degree, punishable as provided in s. 775.082 or s. 775.083.
 163 (c) For a third or subsequent offense, a felony of the
 164 third degree, punishable as provided in s. 775.082, s. 775.083,
 165 or s. 775.084.
 166 (12) Information contained within the electronic
 167 recordkeeping system shall be disclosed in a manner authorized

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168 by state or federal law.

169 (13) A person who sells any product containing ephedrine
170 or related compounds who in good faith complies with the
171 requirements of this section is immune from civil liability for
172 the release of the information concerning the sale.

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

176 (15) The Department of Law Enforcement shall adopt rules
177 pursuant to ss. 120.536(1) and 120.54 necessary to implement
178 this section.

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