

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; prohibiting any retailer  
25          or entity that collects information on behalf of a  
26          retailer under specified provisions from accessing or  
27          using the information, except for law enforcement purposes  
28          or to facilitate a product recall for public health and

29 safety; providing limited civil immunity for the release  
 30 of information to law enforcement officers; requiring the  
 31 department to contract or enter into a memorandum of  
 32 understanding with a third party to implement the system;  
 33 providing for rulemaking; providing a date of  
 34 implementation; providing an effective date.

35  
 36 Be It Enacted by the Legislature of the State of Florida:

37  
 38 Section 1. Section 893.1495, Florida Statutes, is amended  
 39 to read:

40 893.1495 Retail sale of ephedrine and related compounds.—

41 (1) As used in this section, the term "ephedrine or  
 42 related compounds" means ephedrine, pseudoephedrine,  
 43 phenylpropanolamine, or any of their salts, optical isomers, or  
 44 salts of optical isomers.

45 (2)(1) A ~~No~~ person may not ~~shall~~ knowingly obtain or

46 deliver to an individual in any ~~single~~ retail over-the-counter  
 47 ~~sale any number of packages of any nonprescription compound,~~  
 48 mixture, or preparation ~~drug~~ containing a ~~sole active ingredient~~  
 49 ~~that contains a combined total of more than 9 base grams of~~  
 50 ephedrine or related compounds in excess of the following  
 51 amounts:

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

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

57            (c) In any 30-day period, in any number of retail, over-  
 58 the-counter sales, a total of 9 grams or more of ephedrine or  
 59 related compounds, pseudoephedrine, phenylpropanolamine, or any  
 60 of their salts, optical isomers, or salts of optical isomers, or  
 61 more than three packages in any single retail over-the-counter  
 62 sale, regardless of weight, containing any such sole active  
 63 ingredient.

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

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

83            (5) (a) Any person purchasing, receiving, or otherwise  
 84 acquiring any nonprescription compound, mixture, or preparation

85 containing any detectable quantity of ephedrine or related  
86 compounds must:

87 1. Be at least 18 years of age.

88 2. Produce a government-issued photo identification  
89 showing his or her name, date of birth, address, and photo  
90 identification number or an alternative form of identification  
91 acceptable under 8 C.F.R. s. 274a.2(b)(1)(v)(A) and (B).

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

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

108 1. The date and time of the transaction.

109 2. The name, date of birth, address, and photo  
110 identification number of the purchaser, as well as the type of  
111 identification and the government of issuance.

112 3. The number of packages purchased, the total grams per

113 package, and the name of the compound, mixture, or preparation  
114 containing ephedrine or related compounds.

115 4. The signature of the purchaser, or a unique number  
116 relating the transaction to a paper signature maintained at the  
117 retail premises.

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

119 1. Real-time monitoring of nonprescription over-the  
120 counter sales under this section.

121 2. Blocking of nonprescription over-the-counter sales in  
122 excess of those allowed by the laws of this state or federal  
123 law.

124 (6) A nonprescription compound, mixture, or preparation  
125 containing any quantity of ephedrine or related compounds may  
126 not be sold over the counter unless reported to an electronic  
127 recordkeeping system approved by the Department of Law  
128 Enforcement. This subsection does not apply if the pharmacy or  
129 retailer has received an exemption from the Department of Law  
130 Enforcement under paragraph (5) (b) .

131 (7) Prior to completing a transaction, a pharmacy or  
132 retailer distributing products containing ephedrine or related  
133 compounds to consumers in this state shall submit all required  
134 data into the electronic recordkeeping system approved by the  
135 Department of Law Enforcement either at the point of sale or  
136 through an interface with the electronic recordkeeping system,  
137 unless granted an exemption by the Department of Law Enforcement  
138 under paragraph (5) (b) .

139 (8) The data submitted to the electronic recordkeeping  
140 system must be retained within the system for at least 2 years

141 after the date of entry.

142 (9)(4) The requirements of this section relating to the  
 143 marketing, sale, or distribution of products containing  
 144 ephedrine or related compounds, ~~pseudoephedrine, or~~  
 145 ~~phenylpropanolamine products~~ shall supersede any local ordinance  
 146 or regulation passed by a county, municipality, or other local  
 147 governmental authority.

148 (10) This section does not apply to:

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

151 (b) Wholesalers lawfully distributing products in the  
 152 channels of commerce.

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

154 (d) Licensed long-term care facilities.

155 (e) Government-operated health departments.

156 (f) Physicians' offices.

157 (g) Publicly operated prisons, jails, or juvenile  
 158 correctional facilities or private adult or juvenile  
 159 correctional facilities under contract with the state.

160 (h) Public or private educational institutions maintaining  
 161 health care programs.

162 (i) Government-operated or industry-operated medical  
 163 facilities serving employees of the government or industry  
 164 operating them.

165 (11)(5) Any individual who violates ~~subsection (1),~~  
 166 subsection (2), or subsection (3), or subsection (4) commits:

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

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

171 (c) For a third or subsequent offense, a felony of the  
172 third degree, punishable as provided in s. 775.082, s. 775.083,  
173 or s. 775.084.

174 (12) Information contained within the electronic  
175 recordkeeping system shall be disclosed in a manner authorized  
176 by state or federal law. Any retailer or entity that collects  
177 information on behalf of a retailer as required by the Combat  
178 Methamphetamine Epidemic Act of 2005, Pub. L. No. 109-177, Title  
179 VII, as amended, and this section may not access or use that  
180 information, except for law enforcement purposes pursuant to  
181 state or federal law or to facilitate a product recall for  
182 public health and safety.

183 (13) A person who sells any product containing ephedrine  
184 or related compounds who in good faith releases information  
185 under this section to a federal, state, or local law enforcement  
186 officer, or to any person acting on behalf of such an officer,  
187 is immune from civil liability for the release unless the  
188 release constitutes gross negligence or intentional, wanton, or  
189 willful misconduct.

190 (14) The Department of Law Enforcement shall contract or  
191 enter into a memorandum of understanding, as applicable, with a  
192 private third-party administrator to implement the electronic  
193 recordkeeping system required by this section.

194 (15) The Department of Law Enforcement shall adopt rules  
195 pursuant to ss. 120.536(1) and 120.54 necessary to implement  
196 this section.

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2010

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