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HOUSE BILL 825

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

John A. Heaton

AN ACT

**RELATING TO CONTROLLED SUBSTANCES; INCLUDING PSEUDOEPHEDRINE AS
A CONTROLLED SUBSTANCE; PREVENTING THE USE OF PSEUDOEPHEDRINE
FOR CONVERSION INTO METHAMPHETAMINE.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. Section 30-31-3 NMSA 1978 (being Laws 1972,
Chapter 84, Section 3, as amended) is amended to read:**

"30-31-3. DUTY TO ADMINISTER. --

**A. The board shall administer the Controlled
Substances Act and may add by regulation substances to the list
of substances enumerated in Schedules I through IV pursuant to
the procedures of the Uniform Licensing Act. In determining
whether a substance has the potential for abuse, the board
shall consider the following:**

- (1) the actual or relative abuse of the**

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1 substance;

2 (2) the scientific evidence of the
3 pharmacological effect of the substance, if known;

4 (3) the state of current scientific knowledge
5 regarding the substance;

6 (4) the history and current pattern of abuse;

7 (5) the scope, duration and significance of
8 abuse;

9 (6) the risk to the public health; and

10 (7) the potential of the substance to produce
11 psychic or physiological dependence liability.

12 B. After considering the factors enumerated in
13 Subsection A of this section, the board shall make findings and
14 issue regulations controlling the substance if it finds the
15 substance has a potential for abuse.

16 C. If any substance is designated as a controlled
17 substance under federal law and notice is given to the board,
18 the board may, by regulation, similarly control the substance
19 under the Controlled Substances Act after providing for a
20 hearing pursuant to the Uniform Licensing Act.

21 D. Authority to control under this section does not
22 extend to distilled spirits, wine, malt beverages, tobacco or
23 pesticides as defined in the Pesticide Control Act.

24 ~~[E. The board shall exclude any nonnarcotic~~
25 ~~substance from a schedule if such substance may, under Section~~

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1 ~~61-11-22 NMSA 1978, be lawfully sold over the counter without a~~
2 ~~prescription.]"~~

3 Section 2. Section 30-31-10 NMSA 1978 (being Laws 1972,
4 Chapter 84, Section 10) is amended to read:

5 "30-31-10. SCHEDULE V. --

6 A. The following controlled substances are included
7 in Schedule V:

8 [~~A.~~] (1) any compound, mixture or preparation
9 [~~containing~~] that contains the following limited quantities of
10 any of the following narcotic drugs [~~which~~] and that also
11 contains one or more nonnarcotic active medicinal ingredients
12 in sufficient proportion to confer upon the compound, mixture
13 or preparation valuable medicinal qualities other than those
14 possessed by the narcotic drug alone:

15 [~~(1)~~] (a) not more than two hundred
16 milligrams of codeine, or any of its salts, per one hundred
17 milliliters or per one hundred grams;

18 [~~(2)~~] (b) not more than one hundred
19 milligrams of dihydrocodeine, or any of its salts, per one
20 hundred milliliters or per one hundred grams;

21 [~~(3)~~] (c) not more than one hundred
22 milligrams of ethylmorphine, or any of its salts, per one
23 hundred milliliters or per one hundred grams;

24 [~~(4)~~] (d) not more than two and five-
25 tenths milligrams of diphenoxylate and not less than twenty-

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1 five micrograms of atropine sulfate per dosage unit; or

2 [~~(5)~~] (e) not more than one hundred
3 milligrams of opium per one hundred milliliters or per one
4 hundred grams; and

5 (2) any compound, mixture or preparation that
6 contains any detectable quantity of pseudoephedrine, its salts
7 or its optical isomers, or salts of its optical isomers. A
8 compound, mixture or preparation as specified in this
9 subsection shall:

10 (a) be dispensed, sold or distributed
11 only by a licensed pharmacist;

12 (b) require that a person purchasing,
13 receiving or otherwise acquiring the compound, mixture or
14 preparation shall produce a photo identification showing the
15 date of birth of the person and shall sign a written log or
16 receipt showing the date of the transaction, the name of the
17 person and the amount of the compound, mixture or preparation;
18 and

19 (c) be limited to no more than nine
20 grams of any product, mixture or preparation within a
21 thirty-day period; provided, however, that this limit shall not
22 apply to any quantity of such product, mixture or preparation
23 dispensed pursuant to a valid prescription.

24 B. The board may by regulation exempt any compound,
25 mixture or preparation containing any depressant or stimulant

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1 substance enumerated in Schedules III, IV or V from the
2 application of the Controlled Substances Act if:

3 (1) the compound, mixture or preparation
4 contains one or more active medicinal ingredients not having a
5 depressant or stimulant effect on the central nervous system;
6 and

7 (2) such ingredients are included in such
8 combinations, quantity, proportion or concentration as to
9 vitiate the potential for abuse of the substances ~~[which]~~ that
10 do have a depressant or stimulant effect on the nervous system.

11 C. The board may, by rule, remove a product
12 containing pseudoephedrine from Schedule V if the board
13 determines that the product is formulated as to effectively
14 prevent the conversion of pseudoephedrine into
15 methamphetamine. "

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