

AN ACT

RELATING TO METHAMPHETAMINE PRODUCTION; RESTRICTING THE AMOUNT OF PURCHASE OF PRODUCTS WITH AN EPHEDRINE OR PSEUDOEPHEDRINE BASE; REQUIRING RETAILERS OF NONPRESCRIPTION PRODUCTS CONTAINING EPHEDRINE OR PSEUDOEPHEDRINE TO USE A REAL-TIME STOP SALE SYSTEM.

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

SECTION 1. RESTRICTIONS OF SALE OF EPHEDRINE OR PSEUDOEPHEDRINE--IDENTIFICATION--USE OF REAL-TIME STOP SALE SYSTEM REQUIRED--SYSTEM REQUIREMENT--PENALTIES--DEFINITIONS.--

A. A retailer shall not sell to the same person, and a person shall not purchase, products containing more than three and six-tenths grams per day or more than nine grams per thirty-day period of ephedrine or pseudoephedrine base, or their isomers. The limits shall apply to the total amount of base ephedrine and pseudoephedrine contained in the products and not the overall weight of the products.

B. Nonprescription products containing pseudoephedrine or ephedrine shall be maintained behind the counter or in a locked case where the customer does not have direct access.

C. A retailer shall require any person purchasing a nonprescription product that contains pseudoephedrine or ephedrine to present valid government-issued photo

identification at the point of sale. The retailer shall record the name and address of the purchaser; name and quantity of product purchased; date and time purchased; and purchaser identification type and number, such as a driver's license state and number, and require the purchaser's signature in a paper or electronic logbook.

D. Beginning January 1, 2014, a retailer shall, before completing a sale under this section, electronically submit the required information to the real-time stop sale system administered by the board of pharmacy; provided that access to any equipment, maintenance or training necessary to implement the system is available without a charge to retailers.

E. Unless a retailer has violated any provision of this section in a negligent, wanton, reckless or deliberate manner, a retailer utilizing the real-time stop sale system in accordance with this section shall not be civilly liable as a result of any act or omission in carrying out the duties required by this section.

F. If a retailer selling a nonprescription product containing pseudoephedrine or ephedrine experiences mechanical or electronic failure of the real-time stop sale system and is unable to comply with the real-time stop sale system requirement, the retailer shall maintain a written log or an alternative electronic record keeping mechanism until such

time as the retailer is able to comply with the real-time stop sale system requirement. In the case of a prolonged outage of the system, a retailer shall log applicable sales and report them to the board of pharmacy in accordance with rules promulgated by the board.

G. A retailer shall not be responsible for any charges associated with the design, implementation or operation of the real-time stop sale system.

H. A retailer selling a nonprescription product containing pseudoephedrine or ephedrine may request an exemption from electronic reporting from the board of pharmacy if the retailer lacks the technology to access the real-time stop sale system and the retailer maintains a sales volume of less than seventy-two grams of pseudoephedrine, ephedrine or related compounds in a thirty-day period.

I. The vendor of the real-time stop sale system shall forward state transaction records in the real-time stop sale system to the board of pharmacy weekly and provide real-time access to the real-time stop sale system information through the system's online portal to law enforcement.

J. The real-time stop sale system shall be capable of generating a stop sale alert, which shall be a notification that completion of the sale would result in the seller or purchaser violating the quantity limits set forth in this section. The seller shall not complete the sale if the system

generates a stop sale alert. The system shall contain an override function that may be used by a seller of ephedrine or pseudoephedrine who has a reasonable fear of imminent bodily harm if the seller does not complete a sale. Each instance in which the override function is utilized shall be logged by the system.

K. A person who knowingly or intentionally violates any provision of this section is guilty of a misdemeanor and shall be punished, notwithstanding the provisions of Section 31-19-1 NMSA 1978, by a fine of up to one thousand dollars (\$1,000). If a product is dispensed in violation of Subsection A of this section, the owner or operator of the wholesale or retail establishment dispensing the product shall be in violation of Subsection A of this section.

L. This section does not apply to a person who obtains the product pursuant to a valid prescription.

M. The board of pharmacy shall oversee the real-time stop sale system and enforce the provisions of this section in accordance with an implementation plan approved by the department of information technology pursuant to the Department of Information Technology Act. The board shall consult with the department of information technology to ensure the real-time stop sale system follows proper protocols as determined by the department.

N. This section shall supersede any local laws or ordinances, including those of home rule municipalities, regulating the sale of products containing pseudoephedrine or ephedrine.

O. For the purposes of this section, "real-time stop sale system" means a system intended to be used by law enforcement agencies and pharmacies or other business establishments that:

(1) is installed, operated and maintained free of any one-time or recurring charge to the business establishment or to the state;

(2) is able to communicate in real time with similar systems operated in other states and similar systems containing information submitted by more than one state;

(3) complies with the security policy of the criminal justice information services division of the federal bureau of investigation;

(4) complies with information exchange standards adopted by the national information exchange model;

(5) uses a mechanism to prevent the completion of a sale of a product containing ephedrine or pseudoephedrine that would violate state or federal law regarding the purchase of a product containing those substances; and

(6) is equipped with an override of the

mechanism that:

(a) may be activated by an employee of a business establishment; and

(b) creates a record of each activation of the override.

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013. _____