

FIRST REGULAR SESSION

HOUSE BILL NO. 201

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MORRIS.

0785L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 195.246 and 579.110, RSMo, and section 195.417 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 195.417 as enacted by senate bill no. 724, ninety-fourth general assembly, second regular session, and to enact in lieu thereof six new sections relating to controlled substances, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 195.246 and 579.110, RSMo, and section 195.417 as enacted by
2 senate bill no. 491, ninety-seventh general assembly, second regular session, and section 195.417
3 as enacted by senate bill no. 724, ninety-fourth general assembly, second regular session, are
4 repealed and six new sections enacted in lieu thereof, to be known as sections 195.246, 195.417,
5 195.419, 195.422, 195.423, and 579.110, to read as follows:

195.246. 1. It is unlawful for any person to possess any methamphetamine precursor
2 drug with the intent to manufacture amphetamine, methamphetamine or any of their analogs.

3 2. Possession of more than [twenty-four] **fifteen** grams of any methamphetamine
4 precursor drug or combination of methamphetamine precursor drugs shall be prima facie
5 evidence of intent to violate this section. This subsection shall not apply to any practitioner or
6 to any product possessed in the course of a legitimate business.

7 3. A person who violates this section is guilty of a class D felony.

195.417. 1. The limits specified in this section shall not apply to any quantity of such
2 product, mixture, or preparation which must be dispensed, sold, or distributed in a pharmacy
3 pursuant to a valid prescription.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

4 2. Within any thirty-day period, no person shall sell, dispense, or otherwise provide to
5 the same individual, and no person shall purchase, receive, or otherwise acquire more than the
6 following amount: any number of packages of any drug product containing any detectable
7 amount of ephedrine, phenylpropanolamine, or pseudoephedrine, or any of their salts or optical
8 isomers, or salts of optical isomers, either as:

9 (1) The sole active ingredient; or

10 (2) One of the active ingredients of a combination drug; or

11 (3) A combination of any of the products specified in subdivisions (1) and (2) of this
12 subsection;

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14 in any total amount greater than nine grams, without regard to the number of transactions.

15 3. Within any twenty-four-hour period, no pharmacist, intern pharmacist, or registered
16 pharmacy technician shall sell, dispense, or otherwise provide to the same individual, and no
17 person shall purchase, receive, or otherwise acquire more than the following amount: any
18 number of packages of any drug product containing any detectable amount of ephedrine,
19 phenylpropanolamine, or pseudoephedrine, or any of their salts or optical isomers, or salts of
20 optical isomers, either as:

21 (1) The sole active ingredient; or

22 (2) One of the active ingredients of a combination drug; or

23 (3) A combination of any of the products specified in subdivisions (1) and (2) of this
24 subsection;

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26 in any total amount greater than three and six-tenths grams without regard to the number of
27 transactions.

28 **4. (1) Within any twelve-month period, no pharmacist, intern pharmacist, or**
29 **registered pharmacy technician shall sell, dispense, or otherwise provide to the same**
30 **individual, and no person shall purchase, receive, or otherwise acquire more than the**
31 **following amount: any number of packages of any drug product containing any detectable**
32 **amount of ephedrine, phenylpropanolamine, pseudoephedrine, any of their salts or optical**
33 **isomers, or salts of optical isomers, either as:**

34 **(a) The sole active ingredient;**

35 **(b) One of the active ingredients of a combination drug; or**

36 **(c) A combination of any of the products specified in paragraphs (a) and (b) of this**
37 **subdivision; in any total amount greater than sixty grams without regard to the number**
38 **of transactions.**

39 **(2) If an individual purchases, receives, or otherwise acquires thirty grams of any**
40 **product listed in subdivision (1) of this subsection over the counter during any six-month**
41 **period of the twelve-month period described in subdivision (1) of this subsection, the**
42 **individual must obtain a prescription to purchase an additional amount of such product,**
43 **not to exceed sixty grams annually, during the remaining time of the twelve-month period.**

44 **(3) The monthly and annual purchase limits contained in this section shall include**
45 **any quantities of such products that are purchased in other states, if such other state is**
46 **utilizing the same electronic tracking system utilized in this state.**

47 **5.** All packages of any compound, mixture, or preparation containing any detectable
48 quantity of ephedrine, phenylpropanolamine, or pseudoephedrine, or any of their salts or optical
49 isomers, or salts of optical isomers, except those that are excluded from Schedule V in
50 subsection 17 or 18 of section 195.017, shall be offered for sale only from behind a pharmacy
51 counter where the public is not permitted, and only by a registered pharmacist or registered
52 pharmacy technician under section 195.017.

53 **6. Each pharmacy and pharmacist licensed in this state shall have the discretion**
54 **to, in good faith, refuse to sell, dispense, or otherwise provide any individual with any**
55 **methamphetamine precursor drug, and such pharmacy shall not be subject to criminal or**
56 **civil liability for failure to sell, dispense, or otherwise provide such methamphetamine**
57 **precursor drug.**

58 [5.] **7.** Each pharmacy shall submit information regarding sales of any compound,
59 mixture, or preparation as specified in this section in accordance with transmission methods and
60 frequency established by the department by regulation.

61 [6. This section shall supersede and preempt any local ordinances or regulations,
62 including any ordinances or regulations enacted by any political subdivision of the state.]

63 **8.** This section shall not apply to the sale of any animal feed products containing
64 ephedrine or any naturally occurring or herbal ephedra or extract of ephedra.

65 [7.] **9.** All logs, records, documents, and electronic information maintained for the
66 dispensing of these products shall be open for inspection and copying by municipal, county, and
67 state or federal law enforcement officers whose duty it is to enforce the controlled substances
68 laws of this state or the United States.

69 [8.] **10.** All persons who dispense or offer for sale pseudoephedrine and ephedrine
70 products, except those that are excluded from Schedule V in subsection 17 or 18 of section
71 195.017, shall ensure that all such products are located only behind a pharmacy counter where
72 the public is not permitted.

73 [9.] **11.** The penalty for a knowing or reckless violation of this section is found in section
74 579.060.

195.417. 1. The limits specified in this section shall not apply to any quantity of such product, mixture, or preparation which must be dispensed, sold, or distributed in a pharmacy pursuant to a valid prescription.

2. Within any thirty-day period, no person shall sell, dispense, or otherwise provide to the same individual, and no person shall purchase, receive, or otherwise acquire more than the following amount: any number of packages of any drug product containing any detectable amount of ephedrine, phenylpropanolamine, or pseudoephedrine, or any of their salts or optical isomers, or salts of optical isomers, either as:

(1) The sole active ingredient; or

(2) One of the active ingredients of a combination drug; or

(3) A combination of any of the products specified in subdivisions (1) and (2) of this subsection; in any total amount greater than [nine] **seven and one-half** grams, without regard to the number of transactions.

3. Within any twenty-four-hour period, no pharmacist, intern pharmacist, or registered pharmacy technician shall sell, dispense, or otherwise provide to the same individual, and no person shall purchase, receive, or otherwise acquire more than the following amount: any number of packages of any drug product containing any detectable amount of ephedrine, phenylpropanolamine, or pseudoephedrine, or any of their salts or optical isomers, or salts of optical isomers, either as:

(1) The sole active ingredient; or

(2) One of the active ingredients of a combination drug; or

(3) A combination of any of the products specified in subdivisions (1) and (2) of this subsection; in any total amount greater than three and six-tenths grams without regard to the number of transactions.

4. (1) Within any twelve-month period, no pharmacist, intern pharmacist, or registered pharmacy technician shall sell, dispense, or otherwise provide to the same individual, and no person shall purchase, receive, or otherwise acquire more than the following amount: any number of packages of any drug product containing any detectable amount of ephedrine, phenylpropanolamine, pseudoephedrine, any of their salts or optical isomers, or salts of optical isomers, either as:

(a) The sole active ingredient;

(b) One of the active ingredients of a combination drug; or

(c) A combination of any of the products specified in paragraphs (a) and (b) of this subdivision; in any total amount greater than sixty grams without regard to the number of transactions.

36 **(2) If an individual purchases, receives, or otherwise acquires thirty grams of any**
37 **product listed in subdivision (1) of this subsection over the counter during any six-month**
38 **period of the twelve-month period described in subdivision (1) of this subsection, the**
39 **individual must obtain a prescription to purchase an additional amount of such product,**
40 **not to exceed sixty grams annually, during the remaining time of the twelve-month period.**

41 **(3) The monthly and annual purchase limits contained in this section shall include**
42 **any quantities of such products that are purchased in other states, if such other state is**
43 **utilizing the same electronic tracking system utilized in this state.**

44 **5.** All packages of any compound, mixture, or preparation containing any detectable
45 quantity of ephedrine, phenylpropanolamine, or pseudoephedrine, or any of their salts or optical
46 isomers, or salts of optical isomers, except those that are excluded from Schedule V in
47 subsection 17 or 18 of section 195.017, shall be offered for sale only from behind a pharmacy
48 counter where the public is not permitted, and only by a registered pharmacist or registered
49 pharmacy technician under section 195.017.

50 **6. Each pharmacy and pharmacist licensed in this state shall have the discretion**
51 **to, in good faith, refuse to sell, dispense, or otherwise provide any individual with any**
52 **methamphetamine precursor drug, and such pharmacy shall not be subject to criminal or**
53 **civil liability for failure to sell, dispense, or otherwise provide such methamphetamine**
54 **precursor drug.**

55 [5.] **7.** Each pharmacy shall submit information regarding sales of any compound,
56 mixture, or preparation as specified in this section in accordance with transmission methods and
57 frequency established by the department by regulation.

58 [6. This section shall supersede and preempt any local ordinances or regulations,
59 including any ordinances or regulations enacted by any political subdivision of the state.]

60 **8.** This section shall not apply to the sale of any animal feed products containing
61 ephedrine or any naturally occurring or herbal ephedra or extract of ephedra.

62 [7.] **9.** All logs, records, documents, and electronic information maintained for the
63 dispensing of these products shall be open for inspection and copying by municipal, county, and
64 state or federal law enforcement officers whose duty it is to enforce the controlled substances
65 laws of this state or the United States.

66 [8.] **10.** Within thirty days of June 15, 2005, all persons who dispense or offer for sale
67 pseudoephedrine and ephedrine products, except those that are excluded from Schedule V in
68 subsection 17 or 18 of section 195.017, shall ensure that all such products are located only
69 behind a pharmacy counter where the public is not permitted.

70 [9.] **11.** Any person who knowingly or recklessly violates this section is guilty of a class
71 A misdemeanor.

195.419. Any person who has been found guilty or pled guilty or nolo contendere
2 to any felony drug crime shall be required to obtain a prescription to purchase, receive, or
3 otherwise acquire any drug or drug product containing any detectable amount of
4 ephedrine, phenylpropanolamine, pseudoephedrine, any of their salts or optical isomers,
5 or salts of optical isomers.

195.422. To protect the privacy interests of persons purchasing controlled
2 substances, the department of public safety shall implement a method of coordination
3 between the MULES system and any electronic tracking system that tracks purchases of
4 controlled substances. If the purchase of a controlled substance is denied due to a felony
5 drug conviction by the purchaser, or if such purchase would exceed the purchaser's
6 allowable limit, the only notation in the MULES system and electronic tracking system
7 shall be "sale denied" without disclosure of the reason for such denial.

195.423. The governing body of any city, county, or other political subdivision of
2 this state that has an ordinance or regulation in effect as of the effective date of this section
3 requiring a prescription to purchase, receive, or otherwise acquire any drug or drug
4 product containing any detectable amount of ephedrine, phenylpropanolamine,
5 pseudoephedrine, any of their salts or optical isomers, or salts of optical isomers shall vote
6 whether to continue its existing ordinance or regulation within ninety days of the effective
7 date of this section.

579.110. 1. A person commits the offense of possession of methamphetamine precursors
2 if he or she knowingly possesses one or more chemicals listed in subsection 2 of section 195.400,
3 reagents, solvents, or any other chemicals proven to be precursor ingredients of
4 methamphetamine or amphetamine, as established by expert testimony, with the intent to
5 manufacture, compound, convert, produce, process, prepare, test, or otherwise alter that chemical
6 to create a controlled substance or a controlled substance analogue in violation of this chapter
7 or chapter 195.

8 2. Possession of more than [twenty-four] **fifteen** grams of ephedrine or pseudoephedrine
9 shall be prima facie evidence of intent to violate this section. This subsection shall not apply to
10 any practitioner or to any product possessed in the course of a legitimate business.

11 3. The offense of possession of methamphetamine precursors is a class E felony.

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