

**58-37c-20.5 Pseudoephedrine products -- Limitations on retail sale.**

- (1) As used in this section:
  - (a) "Mobile retail vendor" means a person or entity that sells product at retail from a stand that is intended to be temporary, or that is capable of being moved from one location to another, whether the stand is located within or on the premises of a fixed facility or is located on unimproved real estate; and
  - (b) "Product" means any product, mixture, or preparation, or any combination of products that contain ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or isomers, or salts of optical isomers, or a combination of any of these substances.
- (2) A retail distributor or a mobile retail vendor may not distribute or sell any product that exceeds the threshold amount of 3.6 grams of ephedrine, pseudoephedrine, or phenylpropanolamine, or any combination of these, regardless of the number of transactions, during any 24-hour period.
- (3) A mobile retail vendor may not distribute or sell any product that exceeds the threshold amount of 7.5 grams of ephedrine, pseudoephedrine, or phenylpropanolamine, regardless of the number of transactions, during any 30-day period.
- (4) A retail distributor or a mobile retail vendor may not distribute or sell any product, unless the retail distributor or mobile retail vendor:
  - (a) stores the product in an area not accessible to customers prior to the sale, which area may include a locked cabinet to display the product in an area accessible to customers, if the locked cabinet may be opened only by the retail distributor or mobile retail vendor or its employees;
  - (b) stores all nonliquid scheduled listed chemical products in packaging containing blister packs, with each blister containing no more than two dosage units;
  - (c) requires the purchaser of the product to provide photo identification issued by a governmental agency and that includes the purchaser's date of birth;
  - (d) maintains a written or electronic log under Subsection (5) of the sales made under this section; and
  - (e) provides a notice concerning federal penalties for making false statements or misrepresentations, as provided in Subsection (5)(d).
- (5) Each retail distributor or mobile retail vendor shall maintain an electronic or written log that contains the following information regarding each person to whom product is distributed or sold under this section. The log shall include:
  - (a) the following information, provided or written in the log by the purchaser:
    - (i) the purchaser's name, address, and date of birth, as demonstrated by a form of personal identification issued by the state or the federal government and that provides an identifying photograph of the person;
    - (ii) the date and time of the transaction; and
    - (iii) the purchaser's signature; and
  - (b) the following information verified or written in by the retail distributor or the mobile retail vendor:
    - (i) verification of the identity of the purchaser as indicated by the form of identification presented by the purchaser;
    - (ii) verification that the date and time of the transaction as entered in the log is correct; and
    - (iii) entry of the brand name and the quantity of the product sold in the transaction.
  - (c) The retail distributor or the mobile retail vendor shall maintain the information required to be recorded in a log under Subsections (5)(a) and (b) for not less than two years from the most recent date contained in the log.

- (d) In addition to the log information required under this Subsection (5), the log, or a prominently displayed sign, shall contain the following statement verbatim which shall be visible to purchasers of product:

"WARNING: Section 1001 of Title 18, United States Code, states that whoever, with respect to the information to be provided in this log, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any materially false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document, knowing the same to contain any materially false, fictitious, or fraudulent statement or entry, shall be fined not more than \$250,000 if an individual or \$500,000 if an organization, imprisoned for not more than five years, or both."

- (6)
  - (a) A person may not knowingly and intentionally use, release, publish, or otherwise make available to any person or entity any information in or obtained from a log maintained by a retail distributor or a mobile retail vendor under this section for any purpose other than those specified in Subsection (6)(b).
  - (b) The retail distributor or its designee shall make information in the log available only to:
    - (i) federal, state, and local law enforcement authorities engaged as a duty of their employment in enforcing laws regulating controlled substances; and
    - (ii) an individual:
      - (A) whose request is for records in the log of that individual's purchase or receipt of product; and
      - (B) who has provided evidence satisfactory to the retail distributor that the individual is in fact the person regarding whom the requested log entry is made.
  - (c) Any person who knowingly and intentionally releases or modifies any information in the log in violation of this Subsection (6) is guilty of a class B misdemeanor.
- (7)
  - (a) A person may not purchase product that exceeds the threshold amount of 3.6 grams of ephedrine, pseudoephedrine, or phenylpropanolamine, or any combination of these, regardless of the number of transactions, during any 24-hour period.
  - (b) A person may not purchase product that exceeds the threshold amount of 9 grams of ephedrine, pseudoephedrine, or phenylpropanolamine, or any combination of these, regardless of the number of transactions, during any 30-day period.
  - (c) A violation of this Subsection (7) is a class B misdemeanor.
- (8) This section does not apply to any quantity of product possessed by:
  - (a) a physician, pharmacist, veterinarian, retail distributor, wholesaler, manufacturer, warehouseman, or common carrier, or any agent of these persons, who possess the product in the regular course of lawful business activities; or
  - (b) a person who possesses the product pursuant to a valid prescription as defined in Section 58-37-2.
- (9) This section does not apply to dietary supplements, herbs, or other natural products, including concentrates or extracts, which:
  - (a) are not otherwise prohibited by law; and
  - (b) may contain naturally occurring ephedrine, ephedrine alkaloids, or pseudoephedrine, or their salts, isomers, or salts of isomers, or a combination of these substances, that:
    - (i) are contained in a matrix of organic material; and
    - (ii) do not exceed 15% of the total weight of the natural product.
- (10) This section does not apply to an individual sales transaction in which the purchaser purchases a single package containing no more than 60 mg of pseudoephedrine.

(11)

- (a) A violation of this section is a class B misdemeanor, and a second or subsequent violation of this section is a class A misdemeanor.
- (b) For purposes of this section, a plea of guilty or no contest to a violation of this section which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction for a violation of this section, even if the charge has been subsequently reduced or dismissed in accordance with a plea in abeyance agreement.

Enacted by Chapter 358, 2007 General Session