

58-37c-20 Possession of ephedrine, pseudoephedrine, or phenylpropanolamine --

Penalties.

- (1) A person is guilty of a class A misdemeanor:
 - (a) who is not licensed to engage in regulated transactions and is not excepted from licensure; and
 - (b) who, under circumstances not amounting to a violation of Subsection 58-37c-3(11)(k) or Subsection 58-37d-4(1)(a), possesses more than 9 grams of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, or a combination of any of these substances.
- (2) It is an affirmative defense to a charge under Subsection (1) that the person in possession of ephedrine, pseudoephedrine, phenylpropanolamine, or a combination of these two substances:
 - (a)
 - (i) is a physician, pharmacist, retail distributor, wholesaler, manufacturer, warehouseman, or common carrier, or an agent of any of these persons; and
 - (ii) possesses the substances in the regular course of lawful business activities; or
 - (b) possesses the substance pursuant to a valid prescription as defined in Section 58-37-2.
- (3)
 - (a) A defendant shall provide written notice of intent to claim an affirmative defense under this section as soon as practicable, but not later than 10 days prior to trial. The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.
 - (b) The notice shall include the specifics of the asserted defense.
 - (c) The defendant shall establish the affirmative defense by a preponderance of the evidence. If the defense is established, it is a complete defense to the charges.
- (4) 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.

Amended by Chapter 262, 2013 General Session

Amended by Chapter 413, 2013 General Session