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An Act To Restrict Further the Amount of Methamphetamine Precursors That May Be Bought or Sold

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 32 MRSA §13796, sub-§1, as amended by PL 2007, c. 402, Pt. DD, §32, is repealed.

Sec. 2. 32 MRSA §13796, sub-§1-A is enacted to read:

1-A. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Electronic logging system" means a system that tracks sales of over-the-counter cold and allergy medications containing a targeted methamphetamine precursor.

B. "Override function" means a function in an electronic logging system that may be used to override a stop-sale alert and allows the completion of a sale.

C. "Package" means an item packaged and marked for retail sale that is not designed to be broken down or subdivided for the purpose of retail sale.

D. "Retailer" or "retail store" means a person or business entity engaged in this State in the business of selling products to the general public on a retail basis, including pharmacies.

E. "Sale" or "sold" includes barter, exchange, transfer and gift.

F. "Stop-sale alert" means a notification that alerts the retailer that completion of the sale would result in the seller's or purchaser's violating the targeted methamphetamine precursor quantity limits.

Sec. 3. 32 MRSA §13796, sub-§3, ¶A, as enacted by PL 2005, c. 430, §8 and affected by §10, is amended to read:

A. A retailer may not sell more than 3 packages to the same person and a person may not purchase more than 3.6 grams per day or more than 9 grams per 30-day period of a targeted methamphetamine precursor per transaction. The limits apply to the total amount of base ephedrine, phenylpropranolamine and pseudoephedrine contained in packages and not the overall weight of the packages.

A retailer who violates this paragraph commits a Class E crime.

Sec. 4. 32 MRSA §13796, sub-§3, ¶¶D and E are enacted to read:

D. Except with regard to single-dose packages of not more than 60 milligrams that are kept within 30 feet and in direct line of sight of a staffed cash register or store counter, a retailer shall require a person purchasing a targeted methamphetamine precursor to present a valid government-issued photograph identification document at the point of sale. A retailer shall record the:

(1) Name and address of the purchaser;

(2) Name and quantity of targeted methamphetamine precursor purchased;

(3) Date and time of purchase; and

(4) The form of identification and identifying information, such as a driver's license number and the state of issuance, used by the purchaser.

E. Except with regard to single-dose packages of not more than 60 milligrams that are kept within 30 feet and in direct line of sight of a staffed cash register or store counter, a retailer shall maintain a logbook and require a person purchasing a targeted methamphetamine precursor to sign the logbook. A purchaser must sign the logbook acknowledging an understanding of the applicable sales limit and that providing false statements or misrepresentations in the logbook may subject a purchaser to criminal penalties under 18 United States Code, Section 1001.

Sec. 5. 32 MRSA §13796, sub-§§5 to 7 are enacted to read:

5. Electronic logging. Beginning January 1, 2013, a retailer shall, before completing a sale under this section, electronically submit the information obtained pursuant to subsection 3, paragraph D to a real-time electronic logging system. If the electronic logging system generates a stop-sale alert, the retailer may not complete the sale. If the retailer has a reasonable fear of imminent bodily harm if the sale is not completed, the retailer may use the system's override function to complete the sale and must maintain a log of all such sales.

If a retailer experiences mechanical or electronic failure of the electronic logging system and is unable to comply with the electronic logging 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 electronic logging requirement.

6. Immunity; presumption of good faith. A retailer who in good faith uses the electronic logging system in accordance with subsection 5 is immune from any civil liability that might otherwise result from that action, including, but not limited to, any civil liability that might otherwise arise under state or local laws or rules regarding confidentiality of information. In a proceeding regarding immunity from liability, there is a rebuttable presumption of good faith.

7. Local ordinances. This section supersedes any local, municipal or county ordinance regulating sales of packages containing a targeted methamphetamine precursor.

Sec. 6. Electronic logging system. The Maine Board of Pharmacy shall select a real-time electronic logging system to track sales of over-the-counter cold and allergy medications containing a targeted methamphetamine precursor. The system that the Maine Board of Pharmacy selects must be capable of generating a stop-sale alert, have an override function and be available to retailers without a charge for accessing the system. By December 1, 2012, the Maine Board of Pharmacy shall notify retailers which system it has chosen.

SUMMARY

This bill amends the current restrictions on the sale of a targeted methamphetamine precursor to limit sales to 3.6 grams per day and 9 grams per 30 days. It also places the same restrictions on purchases.

The bill requires a purchaser to present a valid identification to the retailer and requires the retailer to record the name and address of the purchaser, the name and quantity of targeted methamphetamine precursor purchased, the date and time of the purchase and the form of identification presented. The retailer is required to maintain a logbook, and the purchaser must sign the logbook. The bill makes it a Class E crime to sell more than 3.6 grams per day and 9 grams per 30 days of a targeted methamphetamine precursor.

The bill requires beginning January 1, 2013 a retailer to, before completing a sale, electronically submit information about the sale and the person purchasing a targeted methamphetamine precursor to a real-time electronic logging system that tracks sales of over-the-counter cold and allergy medications containing a targeted methamphetamine precursor.

The bill provides that a retailer is immune from any civil liability if the sale was made in good faith.

The bill provides that the law regarding targeted methamphetamine precursors supersedes any local, municipal or county ordinance regulating sales of cold and allergy medications containing a targeted methamphetamine precursor.

The bill also requires the Maine Board of Pharmacy to select a real-time electronic logging system and by December 1, 2012 to notify retailers of the system.