

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

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 DD, §32, is repealed.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:

(1) Blocks the illegal sale of over-the-counter cold and allergy medications containing a targeted methamphetamine precursor;

(2) Is available free of charge to the State and its taxpayers, retailers and law enforcement;

(3) Operates in real time and communicates across state lines in real time with similar systems;
and

(4) Complies with the requirements of the national Criminal Justice Information Exchange or its successor program and the National Information Exchange Model or its successor program.

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, as amended by PL 2007, c. 402, Pt. DD, §33, is further amended to read:

3. Restrictions on the sale of targeted methamphetamine precursors. The following restrictions on location in the retail store, manner of sale and amount of sale apply to sales of targeted methamphetamine precursors. The limits under this subsection on the amount of targeted methamphetamine precursors that may be sold apply to the total amount of base ephedrine, phenylpropanolamine and pseudoephedrine contained in packages and not the overall weight of the packages.

~~A. A retailer may not sell more than 3 packages of a targeted methamphetamine precursor per transaction to the same person a targeted methamphetamine precursor that causes the sales to that person of targeted methamphetamine precursors within a 24-hour period to exceed 3.6 grams.~~

A-1. A person may not purchase more than 3.6 grams of a targeted methamphetamine precursor within a 24-hour period.

A-2. A retailer may not sell to the same person a targeted methamphetamine precursor that causes the sale to that person of targeted methamphetamine precursors within a 30-day period to exceed 9 grams.

A-3. A person may not purchase more than 9 grams of a targeted methamphetamine precursor within a 30-day period.

B. 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 ~~must~~shall keep targeted methamphetamine precursors in a location that is locked or otherwise not accessible by customers.

C. 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, the sale of targeted methamphetamine precursors must be completed by:

(1) A licensed pharmacist or licensed pharmacy technician; or

(2) An employee of the retailer who accepts payment for the targeted methamphetamine precursor as long as:

(a) The employee works under the direct supervision of a pharmacist in the pharmacy area of the retail store; and

(b) A licensed pharmacist or licensed pharmacy technician has given individual, express approval for the purchase.

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 of the targeted methamphetamine precursor purchased including the number of grams the product contains;

(3) Date and time of purchase; and

(4) Form of identification presented, issuing government entity and corresponding identification number.

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 written or electronic logbook and require a person purchasing a targeted methamphetamine precursor to sign the logbook. A purchaser must sign the logbook acknowledging that the purchaser understands the applicable sales limit and that providing false statements or misrepresentations in the logbook may subject the purchaser to criminal penalties under 18 United States Code, Section 1001.

Sec. 4. 32 MRSA §13796, sub-§§5 to 7 are enacted to read:

5. Electronic logging. Beginning January 1, 2013, a retailer who has access to the Internet shall, before completing a sale under this section, electronically submit the information obtained pursuant to subsection 3, paragraph D to an electronic logging system. If the electronic logging system generates a stop-sale alert, the retailer may not complete the sale. If the retailer has concern for personal safety or the safety of others if a sale is not completed, the retailer may use the system's override function to complete the sale and must maintain a log of the sale. If the 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 is immune from liability for any claims, costs, expenses, injuries, liabilities, losses or damages of any kind resulting from the retailer's use of the electronic logging system in accordance with this section unless the injury or loss is the result of willful, reckless or intentional misconduct by the retailer. In a civil proceeding in which the retailer's use of an electronic logging system pursuant to this section is an issue, there is a rebuttable presumption of good faith on the part of the retailer.

7. Political subdivision ordinances. A political subdivision, as defined in Title 30-A, section 2252, may not adopt an ordinance regulating the sale or purchase of a targeted methamphetamine precursor, and any ordinance that violates this subsection is void and has no force or effect.

Sec. 5. Electronic logging system. By August 1, 2012, the Department of Public Safety, Maine Drug Enforcement Agency shall select a real-time electronic logging system to track sales of over-the-counter cold and allergy medications containing targeted methamphetamine precursors of ephedrine, pseudoephedrine or phenylpropanolamine. The system must meet the requirements for an electronic logging system as defined in the Maine Revised Statutes, Title 32, section 13796, subsection 1-A, paragraph A. By September 1, 2012, the Maine Drug Enforcement Agency shall notify retailers which system it has chosen.'

SUMMARY

This amendment replaces the bill. The amendment retains the original intent of the bill to replace current restrictions on the sale of a targeted methamphetamine precursor and to limit sales to 3.6 grams per person per day and 9 grams per person per 30 days to comply with federal law. It also places the same restrictions on purchases. The amendment requires the electronic logging system to block illegal sales, subject to override if the seller has a concern for personal safety if the sale is not made. The amendment exempts from the electronic logging system a retailer who does not have access to the Internet. The amendment provides a presumption of good faith for the retailer in a civil proceeding in which use of the electronic logging system is an issue. The amendment requires the Department of Public Safety, Maine Drug Enforcement Agency to select a real-time electronic logging system by August 1, 2012 and by September 1, 2012 to notify retailers of the system.

FISCAL NOTE REQUIRED

(See attached)