An Act To Require a Prescription for a Medication That Contains Certain Substances That May Be Used To Make Methamphetamine

Reference to the Committee on Health and Human Services suggested and ordered printed.

Presented by Representative COOPER of Yarmouth.
Cosponsored by Senator CARPENTER of Aroostook and Representative: LUCHINI of Ellsworth.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 17-A MRSA §1101, sub-§4-A, as enacted by PL 2005, c. 430, §1 and affected by §10, is amended to read:

4-A. "Methamphetamine precursor drug" means any drug or product possessed by a person that contains ephedrine or pseudoephedrine or their salts, isomers or salts of isomers, either alone or in combination with other ingredients, in dry or solid nonliquid form, or that contains in the aggregate a quantity of more than 9 grams of ephedrine, pseudoephedrine or phenylpropanolamine or their salts, isomers or salts of isomers, either alone or in combination with other ingredients, in dry or solid nonliquid form.

Sec. 2. 32 MRSA §13702-A, sub-§33, as enacted by PL 2007, c. 402, Pt. DD, §2, is amended to read:

33. Targeted methamphetamine precursor. "Targeted methamphetamine precursor" means any product containing any amount of ephedrine, pseudoephedrine or phenylpropanolamine or their salts, isomers or salts of isomers, either alone or in combination with other ingredients:

A. In dry or solid nonliquid form; or
B. In liquid, liquid-filled capsule or glycerin matrix form if designation as a targeted methamphetamine precursor has been completed by rule adopted pursuant to section 13795, subsection 5, paragraph A.

Sec. 3. 32 MRSA §13795, sub-§5, ¶A, as amended by PL 2011, c. 657, Pt. AA, §84, is further amended to read:

A. If the Director of the Maine Drug Enforcement Agency within the Department of Public Safety finds that the ease of availability of liquid, liquid-filled capsule or glycerin matrix forms of products containing ephedrine, pseudoephedrine or phenylpropanolamine or their salts, isomers or salts of isomers, either alone or in combination with other ingredients, referred to in this paragraph as "products," is a threat to the public health, safety and welfare, then the Director of the Maine Drug Enforcement Agency shall notify the Commissioner of Health and Human Services. The Commissioner of Health and Human Services shall consult with the joint standing committee of the Legislature having jurisdiction over health and human services matters, providing the reasons for undertaking rulemaking, and may, after consultation, adopt rules designating the products as targeted methamphetamine precursors pursuant to section 13702-A, subsection 33, paragraph B.

Sec. 4. 32 MRSA §13796, sub-§3, as amended by PL 2011, c. 584, §3, 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 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 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.

SUMMARY

This bill requires a prescription to possess any amount of ephedrine or pseudoephedrine. It removes references to ephedrine and pseudoephedrine from the laws governing over-the-counter sales of methamphetamine precursors.