

ENROLLED ACT NO. 133, HOUSE OF REPRESENTATIVES

FIFTY-EIGHTH LEGISLATURE OF THE STATE OF WYOMING
2005 GENERAL SESSION

AN ACT relating to controlled substances; regulating the sale of illegal drug precursors as specified; prohibiting sales to minors; providing a definition; providing penalties; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 35-7-1059 by creating new subsections (e) through (p) is amended to read:

35-7-1059. Unlawful clandestine laboratory operations; methamphetamine precursors; presumptively illegal amount; methamphetamine precursor sales limitations; registration requirements; reports; penalties.

(e) Except as provided in this subsection, no person shall possess a drug product containing more than fifteen (15) grams of ephedrine, pseudoephedrine or phenylpropanolamine, or their salts, isomers or salts of isomers. This subsection shall not apply to the following persons who are lawfully possessing drug products in the course of legitimate business:

(i) A retail distributor or wholesaler of drug products registered with the board;

(ii) A wholesale drug distributor licensed by the board;

(iii) A drug manufacturer licensed by the board;

(iv) A pharmacist licensed by the board;

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(v) A licensed health care professional possessing the drug products in the course of practicing his profession;

(vi) A person in possession of more than fifteen (15) grams of methamphetamine precursor drugs in the person's home or residence under circumstances consistent with typical medicinal or household use as indicated by, but not limited to, storage location and possession of products in a variety of strengths, brands, types, purposes and expiration dates.

(f) A person who knowingly or intentionally violates subsection (e) of this section is guilty of a felony punishable by imprisonment for not more than fifteen (15) years, a fine of twenty-five thousand dollars (\$25,000.00), or both.

(g) The retail sale of nonliquid methamphetamine precursor drugs or liquid products with ephedrine or pseudoephedrine as the sole active ingredient shall be limited to:

(i) Sales in packages containing not more than three (3) grams of one (1) or more methamphetamine precursor drugs, calculated in terms of the active equivalent of ephedrine hydrochloride and pseudoephedrine base;

(ii) Sales in blister packs, each blister containing not more than two (2) dosage units or, when the use of blister packs is not technically feasible, sales in unit dose packets or pouches.

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(h) No person shall sell in a single retail transaction more than two (2) packages as described in subsection (f) of this section.

(j) A retail distributor of products containing methamphetamine precursors shall sell them in one (1) of the following ways:

(i) Product packages are displayed behind a store counter, in an area not accessible to customers;

(ii) Product packages are displayed in a locked case so that a customer must ask a store employee for assistance in purchasing the product;

(iii) Product packages are displayed within thirty (30) feet of and in the direct line of sight of a cash register or store counter staffed by a store employee and the store employs a reliable alarm system to prevent the theft of multiple product packages;

(iv) Product packages are displayed in a location that is under constant video surveillance and:

(A) Persons examining or removing packages are within the camera's view;

(B) The video camera records recognizable images at least once every ten (10) seconds;

(C) Surveillance images are preserved for at least one hundred sixty-eight (168) hours and are available to law enforcement authorities immediately upon request;

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(D) The retail distributor posts a sign in a prominent manner stating that the area is under constant video surveillance;

(E) The retail distributor reports to local law enforcement any theft or suspected thefts.

(k) A person who intentionally or knowingly violates subsection (g), (h) or (j) of this section is guilty of a misdemeanor punishable by a fine of one hundred dollars (\$100.00) for a first offense, five hundred dollars (\$500.00) for a second offense within two (2) years and one thousand dollars (\$1,000.00) and up to six (6) months imprisonment, or both, for a third offense within three (3) years. It shall be a defense to violation under paragraph (g)(ii) of this section that the person making the sale required and obtained proof of age from a purchaser who produced a false, forged or altered document that an ordinarily prudent person would believe to be legitimate.

(m) A resident or nonresident retailer, manufacturer or wholesaler who distributes ephedrine, pseudoephedrine or phenylpropanolamine, or their salts, isomers or salts of isomers in Wyoming shall:

(i) Register with the board by submitting an application on a form prescribed by the board and pay a registration fee of twenty-five dollars (\$25.00). Where the retailer, manufacturer or wholesaler distributions are conducted at more than one (1) location, each location shall be separately registered. Except as provided in subsection (m) of this section, those facilities registered with the board under W.S. 35-7-1024 on July 1, 2005, shall not be required to register under this section;

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(ii) Notify the board of the occurrence of any of the following:

(A) The permanent closing of the retailer, manufacturer or wholesaler outlet;

(B) A change in ownership, name, management or location.

(iii) Be subject to inspection by the board. Inspections shall be conducted during normal business hours and shall be limited to the following:

(A) For retail distribution, inspection of the method of display and sale of any drug products covered by this section;

(B) For manufacturer or wholesaler distribution, inspection of the purchase and sale records of any drug products covered by this section.

(iv) Display the registration issued by the board in a conspicuous location in the place of business;

(v) Provide reports to the board as follows:

(A) A manufacturer or wholesaler who distributes drug products covered by this section shall submit a monthly report no later than the 10th day of the month immediately following the month in which the distribution takes place;

(B) The report shall include a listing by retail vendor, including the name of the proprietary product, package size, date shipped and quantity shipped.

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(n) A registration issued under this section shall be renewed annually, on or before September 30, by submitting a renewal application supplied by the board and paying the renewal fee of twenty-five dollars (\$25.00). Renewal applications postmarked after September 30 shall be subject to a late fee of fifty dollars (\$50.00) which shall be in addition to the renewal fee.

(o) The board may revoke, suspend or assess an administrative penalty for violations of subsection (m) of this section not to exceed one hundred dollars (\$100.00) for a first offense, five hundred dollars (\$500.00) for a second offense within two (2) years and one thousand dollars (\$1,000.00) for a third offense within three (3) years. Any administrative penalty assessed shall be paid to the board who shall remit the monies to the county treasurer to the credit of the public school fund of the county in which the violation occurred.

(p) For purposes of this section, "methamphetamine precursor drug" means nonliquid ephedrine, pseudoephedrine or phenylpropanolamine or liquid products with ephedrine or pseudoephedrine as the sole active ingredient.

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Section 2. This act is effective July 1, 2005.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk