

HOUSE BILL NO. 1328

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES COX (Sponsor), WELLS, RIZZO, JONES (63), TALBOY, HUMMEL, HOLSMAN, McMANUS, HUGHES, WALTON GRAY, PACE, WEBB, MAY, KRATKY, CASEY, CARTER, SCHAD, GATSCHENBERGER, FREDERICK, BERNSKOETTER, BROWN (116), FRANZ, SATER AND JONES (89) (Co-sponsors).

4249L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 195.246 and 195.417, RSMo, and to enact in lieu thereof four new sections relating to controlled substances, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 195.246 and 195.417, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 195.246, 195.265, 195.417, and 195.419, to read as follows:

195.246. 1. It is unlawful for any person to possess any methamphetamine precursor drug with the intent to manufacture amphetamine, methamphetamine or any of their analogs.

2. Possession of more than [twenty-four] **fifteen** grams of any methamphetamine precursor drug or combination of methamphetamine precursor drugs shall be prima facie evidence of intent to violate this section. This subsection shall not apply to any practitioner or to any product possessed in the course of a legitimate business.

3. A person who violates this section is guilty of a class D felony.

195.265. Any person who violates sections 195.202 to 195.256 and who is in possession of a controlled substance and a firearm at the time of the violation shall be subject to the following enhanced penalties for such violation:

(1) For a class A misdemeanor, enhancement to a class D felony;

(2) For a class D felony, enhancement to a class C felony;

(3) For a class C felony, enhancement to a class B felony;

(4) For a class B felony, enhancement to a class A felony; and

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

8 **(5) For a class A felony, enhancement to a class A penalty which term shall be**
9 **served without probation and parole.**

195.417. 1. The limits specified in this section shall not apply to any quantity of such
2 product, mixture, or preparation which must be dispensed, sold, or distributed in a pharmacy
3 pursuant to a valid prescription.

4 2. Within any thirty-day period, no person shall sell, dispense, or otherwise provide to
5 the same individual, and no person shall purchase, receive, or otherwise acquire more than the
6 following amount: any number of packages of any drug product containing any detectable
7 amount of ephedrine, phenylpropanolamine, or pseudoephedrine, or any of their salts or optical
8 isomers, or salts of optical isomers, either as:

9 (1) The sole active ingredient; or

10 (2) One of the active ingredients of a combination drug; or

11 (3) A combination of any of the products specified in subdivisions (1) and (2) of this
12 subsection; in any total amount greater than [nine] **seven and one-half** grams, without regard
13 to the number of transactions.

14 3. Within any twenty-four-hour period, no pharmacist, intern pharmacist, or registered
15 pharmacy technician shall sell, dispense, or otherwise provide to the same individual, and no
16 person shall purchase, receive, or otherwise acquire more than the following amount: any
17 number of packages of any drug product containing any detectable amount of ephedrine,
18 phenylpropanolamine, or pseudoephedrine, or any of their salts or optical isomers, or salts of
19 optical isomers, either as:

20 (1) The sole active ingredient; or

21 (2) One of the active ingredients of a combination drug; or

22 (3) A combination of any of the products specified in subdivisions (1) and (2) of this
23 subsection; in any total amount greater than three and six-tenths grams without regard to the
24 number of transactions.

25 4. **Within any twelve-month period, no pharmacist, intern pharmacist, or registered**
26 **pharmacy technician shall sell, dispense, or otherwise provide to the same individual, and**
27 **no person shall purchase, receive, or otherwise acquire more than the following amount:**
28 **any number of packages of any drug product containing any detectable amount of**
29 **ephedrine, phenylpropanolamine, or pseudoephedrine, or any of their salts or optical**
30 **isomers, or salts of optical isomers, either as:**

31 (1) **The sole active ingredient; or**

32 (2) **One of the active ingredients of a combination drug; or**

33 **(3) A combination of any of the products specified in subdivisions (1) and (2) of this**
34 **subsection; in any total amount greater than seventy-five grams without regard to the**
35 **number of transactions.**

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37 **The monthly and annual purchase limits contained in this section shall include any**
38 **quantities of such products that are purchased in other states, where such other state is**
39 **utilizing the same electronic tracking system utilized in this state.**

40 **5.** All packages of any compound, mixture, or preparation containing any detectable
41 quantity of ephedrine, phenylpropanolamine, or pseudoephedrine, or any of their salts or optical
42 isomers, or salts of optical isomers, except those that are excluded from Schedule V in
43 subsection 17 or 18 of section 195.017, shall be offered for sale only from behind a pharmacy
44 counter where the public is not permitted, and only by a registered pharmacist or registered
45 pharmacy technician under section 195.017.

46 **[5.] 6. Each pharmacy and pharmacist licensed in this state shall have the discretion**
47 **to, in good faith, refuse to sell, dispense, or otherwise provide any individual with any**
48 **methamphetamine precursor drug and such pharmacy shall not be subject to criminal or**
49 **civil liability for failure to sell, dispense, or otherwise provide such methamphetamine**
50 **precursor drug.**

51 **7.** Each pharmacy shall submit information regarding sales of any compound, mixture,
52 or preparation as specified in this section in accordance with transmission methods and
53 frequency established by the department by regulation.

54 **[6.] 8.** This section shall supersede and preempt any local ordinances or regulations,
55 including any ordinances or regulations enacted by any political subdivision of the state. This
56 section shall not apply to the sale of any animal feed products containing ephedrine or any
57 naturally occurring or herbal ephedra or extract of ephedra.

58 **[7.] 9.** All logs, records, documents, and electronic information maintained for the
59 dispensing of these products shall be open for inspection and copying by municipal, county, and
60 state or federal law enforcement officers whose duty it is to enforce the controlled substances
61 laws of this state or the United States.

62 **[8.] 10.** Within thirty days of June 15, 2005, all persons who dispense or offer for sale
63 pseudoephedrine and ephedrine products, except those that are excluded from Schedule V in
64 subsection 17 or 18 of section 195.017, shall ensure that all such products are located only
65 behind a pharmacy counter where the public is not permitted.

66 **[9.] 11.** Any person who knowingly or recklessly violates this section is guilty of a class
67 A misdemeanor.

**195.419. Any person who has been found guilty or pled guilty or nolo contendere
2 to any drug crime shall be required to obtain a prescription to purchase, receive, or
3 otherwise acquire any drug or drug product containing any detectable amount of
4 ephedrine, phenylpropanolamine, or pseudoephedrine, or any of their salts or optical
5 isomers, or salts of optical isomers.**

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