
HOUSE BILL 2844

State of Washington

58th Legislature

2004 Regular Session

By Representatives Lovick, Morrell, Benson, Campbell, Simpson, G., Bush, Quall, Upthegrove and Schual-Berke; by request of Department of Health and Washington State Patrol

Read first time 01/21/2004. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to further regulation of the sale of ephedrine,
2 pseudoephedrine, and phenylpropanolamine; amending RCW 18.64.046,
3 18.64.047, and 69.43.110; reenacting and amending RCW 18.64.044;
4 creating a new section; prescribing penalties; and providing an
5 effective date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The legislature finds that quantities of
8 ephedrine, pseudoephedrine, and phenylpropanolamine continue to be sold
9 at the wholesale and retail levels far in excess of legitimate consumer
10 needs. The excess quantities being sold are most likely used in the
11 criminal manufacture of methamphetamine. It is therefore necessary for
12 the legislature to further regulate the sales of these drugs, including
13 sales from out-of-state sources, in order to reduce the threat that
14 methamphetamine presents to the people of the state.

15 **Sec. 2.** RCW 18.64.044 and 1989 1st ex.s. c 9 s 401 and 1989 c 352
16 s 1 are each reenacted and amended to read as follows:

17 (1) A shopkeeper registered as provided in this section may sell

1 nonprescription drugs, if such drugs are sold in the original package
2 of the manufacturer.

3 (2) Every shopkeeper not a licensed pharmacist, desiring to secure
4 the benefits and privileges of this section, is hereby required to
5 register as a shopkeeper through the master license system, and he or
6 she shall pay the fee determined by the secretary for registration, and
7 on a date to be determined by the secretary thereafter the fee
8 determined by the secretary for renewal of the registration; and shall
9 at all times keep said registration or the current renewal thereof
10 conspicuously exposed in the (~~shop~~) location to which it applies. In
11 event such shopkeeper's registration is not renewed by the master
12 license expiration date, no renewal or new registration shall be issued
13 except upon payment of the registration renewal fee and the master
14 license delinquency fee under chapter 19.02 RCW. This registration fee
15 shall not authorize the sale of legend drugs or controlled substances.

16 (3) The registration fees shall be determined by the secretary
17 under subsection (2) of this section and shall not exceed the cost of
18 (~~registering the shopkeeper~~) administering this chapter.

19 (4)(a) Any shopkeeper who shall vend or sell, or offer to sell to
20 the public any such nonprescription drug or preparation without having
21 registered to do so as provided in this section, shall be guilty of a
22 misdemeanor and each sale or offer to sell shall constitute a separate
23 offense.

24 (b) Any shopkeeper who shall vend or sell, or offer to sell to the
25 public any quantity of ephedrine, pseudoephedrine, or
26 phenylpropanolamine, or their salts, isomers, or salts of isomers,
27 without having registered to do so as provided in this section, shall
28 be guilty of a class C felony and each sale or offer to sell shall
29 constitute a separate offense.

30 (5) A shopkeeper may purchase ephedrine, pseudoephedrine, or
31 phenylpropanolamine, or their salts, isomers, or salts of isomers, only
32 from a wholesaler licensed by the department under RCW 18.64.046 or
33 from a manufacturer licensed by the department under RCW 18.64.045. A
34 person violating this subsection is guilty of a gross misdemeanor, and
35 each purchase in violation of this subsection constitutes a separate
36 offense.

37 (6) No shopkeeper may sell any quantity of ephedrine,
38 pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or

1 salts of isomers, if the total prior monthly sales of these products
2 exceed ten percent of the shopkeeper's total prior monthly sales of
3 nonprescription drugs in March through October. In November through
4 February, no shopkeeper may sell any quantity of ephedrine,
5 pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or
6 salts of isomers, if the total prior monthly sales of these products
7 exceed twenty percent of the shopkeeper's total prior monthly sales of
8 nonprescription drugs. For purposes of this section, monthly sales
9 means total dollars paid by buyers. After July 1, 2006, the board may
10 by rule raise or lower the percentage that limits the amount of
11 ephedrine, pseudoephedrine, or phenylpropanolamine that may be sold.
12 The board may suspend or revoke the registration of a shopkeeper who
13 violates this subsection.

14 (7) Shopkeepers shall maintain records of the receipt and
15 disposition of ephedrine, pseudoephedrine, phenylpropanolamine, their
16 salts, isomers, and salts of isomers, in the form and manner required
17 by the board. The records shall be available for inspection by the
18 board or any law enforcement agency and shall be maintained for two
19 years. The board may suspend or revoke the registration of a
20 shopkeeper who violates this subsection.

21 **Sec. 3.** RCW 18.64.046 and 2003 c 53 s 133 are each amended to read
22 as follows:

23 (1) The owner of each place of business which sells legend drugs
24 and nonprescription drugs, or nonprescription drugs at wholesale shall
25 pay a license fee to be determined by the secretary, and thereafter, on
26 or before a date to be determined by the secretary as provided in RCW
27 43.70.250 and 43.70.280, a like fee to be determined by the secretary,
28 for which the owner shall receive a license of location from the
29 department, which shall entitle such owner to either sell legend drugs
30 and nonprescription drugs or nonprescription drugs at wholesale at the
31 location specified for the period ending on a date to be determined by
32 the secretary, and each such owner shall at the time of payment of such
33 fee file with the department, on a blank therefor provided, a
34 declaration of ownership and location, which declaration of ownership
35 and location so filed as aforesaid shall be deemed presumptive evidence
36 of the ownership of such place of business mentioned therein. It shall

1 be the duty of the owner to notify immediately the department of any
2 change of location and ownership and to keep the license of location or
3 the renewal thereof properly exhibited in such place of business.

4 (2) Failure to conform with this section is a misdemeanor, and each
5 day that the failure continues is a separate offense.

6 (3) In event the license fee remains unpaid on the date due, no
7 renewal or new license shall be issued except upon compliance with
8 administrative procedures, administrative requirements, and fees
9 determined as provided in RCW 43.70.250 and 43.70.280.

10 (4) No wholesaler may sell any quantity of drug products containing
11 ephedrine, pseudoephedrine, phenylpropanolamine, or their salts,
12 isomers, or salts of isomers, if the total prior monthly sales of these
13 products to persons within the state of Washington exceed five percent
14 of the wholesaler's total prior monthly sales of nonprescription drugs
15 to persons within the state in March through October. In November
16 through February, no wholesaler may sell any quantity of drug products
17 containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their
18 salts, isomers, or salts of isomers if the total prior monthly sales of
19 these products to persons within the state of Washington exceed ten
20 percent of the wholesaler's total prior monthly sales of
21 nonprescription drugs to persons within the state. For purposes of
22 this section, monthly sales means total dollars paid by buyers. After
23 July 1, 2006, the board may by rule raise or lower the percentage that
24 limits the amount of ephedrine, pseudoephedrine, or phenylpropanolamine
25 that may be sold. The board may suspend or revoke the license of any
26 wholesaler that violates this section.

27 (5) The requirements for a license apply to all persons, in
28 Washington and outside of Washington, who sell both legend drugs and
29 nonprescription drugs and to those who sell only nonprescription drugs,
30 at wholesale to pharmacies, practitioners, and shopkeepers in
31 Washington.

32 **Sec. 4.** RCW 18.64.047 and 2003 c 53 s 134 are each amended to read
33 as follows:

34 (1) Any itinerant vendor or any peddler of any nonprescription drug
35 or preparation for the treatment of disease or injury, shall pay a
36 registration fee determined by the secretary on a date to be determined

1 by the secretary as provided in RCW 43.70.250 and 43.70.280. The
2 department may issue a registration to such vendor on an approved
3 application made to the department.

4 (2) Any itinerant vendor or peddler who shall vend or sell, or
5 offer to sell to the public any such nonprescription drug or
6 preparation without having registered to do so as provided in this
7 section, is guilty of a misdemeanor and each sale or offer to sell
8 shall constitute a separate offense.

9 (3) In event the registration fee remains unpaid on the date due,
10 no renewal or new registration shall be issued except upon compliance
11 with administrative procedures, administrative requirements, and fees
12 determined as provided in RCW 43.70.250 and 43.70.280. This
13 registration shall not authorize the sale of legend drugs or controlled
14 substances.

15 (4) An itinerant vendor may purchase ephedrine, pseudoephedrine, or
16 phenylpropanolamine, or their salts, isomers, or salts of isomers only
17 from a wholesaler licensed by the department under RCW 18.64.046 or
18 from a manufacturer licensed by the department under RCW 18.64.045.

19 (5) No itinerant vendor may sell any quantity of ephedrine,
20 pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or
21 salts of isomers, if the total prior monthly sales of these products
22 exceed ten percent of the itinerant vendor's total monthly sales of
23 nonprescription drugs in March through October. In November through
24 February, no itinerant vendor may sell any quantity of ephedrine,
25 pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or
26 salts of isomers, if the total prior monthly sales of these products
27 exceed twenty percent of the itinerant vendor's total prior monthly
28 sales of nonprescription drugs. For purposes of this section, monthly
29 sales means total dollars paid by buyers. After July 1, 2006, the
30 board may by rule raise or lower the percentage that limits the amount
31 of ephedrine, pseudoephedrine, or phenylpropanolamine that may be sold.
32 The board may suspend or revoke the registration of an itinerant vendor
33 who violates this subsection.

34 (6) Itinerant vendors shall maintain records of the receipt and
35 disposition of ephedrine, pseudoephedrine, phenylpropanolamine, their
36 salts, isomers, and salts of isomers, in the form and manner required
37 by the board. These records shall be available for inspection by the

1 board or any law enforcement agency and shall be maintained for two
2 years. The board may suspend or revoke the registration of an
3 itinerant vendor who violates this subsection.

4 **Sec. 5.** RCW 69.43.110 and 2001 c 96 s 9 are each amended to read
5 as follows:

6 (1) It is unlawful for a pharmacy licensed by, or shopkeeper or
7 itinerant vendor registered with, the department of health under
8 chapter 18.64 RCW, or an employee thereof, knowingly to sell, transfer,
9 or to otherwise furnish, in a single transaction:

10 (a) More than three packages of one or more products that he or she
11 knows to contain ephedrine, pseudoephedrine, or phenylpropanolamine,
12 their salts, isomers, or salts of isomers; or

13 (b) A single package of any product that he or she knows to contain
14 more than three grams of ephedrine, pseudoephedrine, or
15 phenylpropanolamine, their salts, isomers, or salts of isomers, or a
16 combination of any of these substances.

17 (2) It is unlawful for a person who is not a manufacturer,
18 wholesaler, pharmacy, practitioner, shopkeeper, or itinerant vendor
19 licensed by or registered with the department of health under chapter
20 18.64 RCW to purchase or acquire, in any twenty-four hour period, more
21 than the quantities of the substances specified in subsection (1) of
22 this section.

23 (3) It is unlawful for any person to sell or distribute any of the
24 substances specified in subsection (1) of this section unless the
25 person is licensed by or registered with the department of health under
26 chapter 18.64 RCW.

27 (4) A violation of this section is a gross misdemeanor.

28 NEW SECTION. **Sec. 6.** If any provision of this act or its
29 application to any person or circumstance is held invalid, the
30 remainder of the act or the application of the provision to other
31 persons or circumstances is not affected.

32 NEW SECTION. **Sec. 7.** This act takes effect July 1, 2004.

--- END ---