
SUBSTITUTE SENATE BILL 5123

State of Washington

59th Legislature

2005 Regular Session

By Senate Committee on Judiciary (originally sponsored by Senators Kastama, Rasmussen, Regala and Franklin)

READ FIRST TIME 02/17/05.

1 AN ACT Relating to the sale of precursor drugs; amending RCW
2 69.43.010 and 69.43.030; adding new sections to chapter 69.43 RCW; and
3 prescribing penalties.

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

5 **Sec. 1.** RCW 69.43.010 and 2001 c 96 s 2 are each amended to read
6 as follows:

7 (1) A report to the state board of pharmacy shall be submitted in
8 accordance with this chapter by a manufacturer, wholesaler, retailer,
9 or other person who sells, transfers, or otherwise furnishes to any
10 person any of the following substances or their salts or isomers:

- 11 (a) Anthranilic acid;
- 12 (b) Barbituric acid;
- 13 (c) Chlorephedrine;
- 14 (d) Diethyl malonate;
- 15 (e) D-lysergic acid;
- 16 (f) Ephedrine;
- 17 (g) Ergotamine tartrate;
- 18 (h) Ethylamine;
- 19 (i) Ethyl malonate;

- 1 (j) Ethylephedrine;
- 2 (k) Lead acetate;
- 3 (l) Malonic acid;
- 4 (m) Methylamine;
- 5 (n) Methylformamide;
- 6 (o) Methylephedrine;
- 7 (p) Methylpseudoephedrine;
- 8 (q) N-acetylanthranilic acid;
- 9 (r) Norpseudoephedrine;
- 10 (s) Phenylacetic acid;
- 11 (t) Phenylpropanolamine;
- 12 (u) Piperidine;
- 13 (v) Pseudoephedrine; and
- 14 (w) Pyrrolidine.

15 (2) The state board of pharmacy shall administer this chapter and
16 may, by rule adopted pursuant to chapter 34.05 RCW, add a substance to
17 or remove a substance from the list in subsection (1) of this section.
18 In determining whether to add or remove a substance, the board shall
19 consider the following:

20 (a) The likelihood that the substance is useable as a precursor in
21 the illegal production of a controlled substance as defined in chapter
22 69.50 RCW;

23 (b) The availability of the substance;

24 (c) The relative appropriateness of including the substance in this
25 chapter or in chapter 69.50 RCW; and

26 (d) The extent and nature of legitimate uses for the substance.

27 (3)(a) Any manufacturer, wholesaler, retailer, or other person
28 shall, before selling, transferring, or otherwise furnishing any
29 substance specified in subsection (1) of this section to any person,
30 require proper identification from the purchaser.

31 (b) For the purposes of this subsection, "proper identification"
32 means:

33 (i) A motor vehicle operator's license or other official state-
34 issued identification of the purchaser containing a photograph of the
35 purchaser, and includes the residential or mailing address of the
36 purchaser, other than a post office box number;

37 (ii) The motor vehicle license number of any motor vehicle owned or
38 operated by the purchaser;

1 (iii) A letter of authorization from any business for which any
2 substance specified in subsection (1) of this section is being
3 furnished, which includes the business license number and address of
4 the business;

5 (iv) A description of how the substance is to be used; and

6 (v) The signature of the purchaser.

7 The person selling, transferring, or otherwise furnishing any
8 substance specified in subsection (1) of this section shall affix his
9 or her signature as a witness to the signature and identification of
10 the purchaser.

11 (c) A violation of or a failure to comply with this subsection is
12 a misdemeanor.

13 (4) Any manufacturer, wholesaler, retailer, or other person who
14 sells, transfers, or otherwise furnishes the substance specified in
15 subsection (1) of this section to any person shall, not less than
16 twenty-one days before delivery of the substance, submit a report of
17 the transaction, which includes the identification information
18 specified in subsection (3) of this section to the state board of
19 pharmacy. However, the state board of pharmacy may authorize the
20 submission of the reports on a monthly basis with respect to repeated,
21 regular transactions between the furnisher and the recipient involving
22 the same substance if the state board of pharmacy determines that
23 either of the following exist:

24 (a) A pattern of regular supply of the substance exists between the
25 manufacturer, wholesaler, retailer, or other person who sells,
26 transfers, or otherwise furnishes such substance and the recipient of
27 the substance; or

28 (b) The recipient has established a record of using the substance
29 for lawful purposes.

30 (5) Any person specified in subsection (4) of this section who does
31 not submit a report as required by subsection (4) of this section is
32 guilty of a gross misdemeanor.

33 (6) Any shopkeeper, itinerant vendor, or pharmacy, before selling,
34 transferring, or otherwise furnishing any drug or cosmetic that
35 contains ephedrine, phenylpropanolamine, or pseudoephedrine or their
36 salts, isomers, or salts of isomers to any other person, shall require:

37 (a) Photo identification showing the date of birth of the
38 transferee; and

1 (b) The transferee to sign a written log or receipt showing the
2 date of the transaction, the name of the transferee, and the amount of
3 the compound, mixture, or preparation.

4 (7) Any person specified in subsection (6) of this section who does
5 not require identification or keep the records as required by
6 subsection (6) of this section is guilty of a gross misdemeanor.

7 **Sec. 2.** RCW 69.43.030 and 1988 c 147 s 3 are each amended to read
8 as follows:

9 (1) RCW 69.43.010 and 69.43.020 and sections 3, 4, and 5 of this
10 act do not apply to any of the following:

11 ~~((1))~~ (a) Any pharmacist or other authorized person who sells or
12 furnishes a substance upon the prescription of a practitioner, as
13 defined in chapter 69.41 RCW;

14 ~~((2))~~ (b) Any practitioner who administers or furnishes a
15 substance to his or her patients;

16 ~~((3))~~ (c) Any traditional Chinese herbal practitioner who is
17 certified as a diplomate in Chinese herbology from the national
18 certification commission for acupuncture and oriental medicine or who
19 has received a certificate from a school accredited by the
20 accreditation council on acupuncture and oriental medicine when selling
21 herbal formulas to patients;

22 (d) Any manufacturer or wholesaler licensed by the state board of
23 pharmacy who sells, transfers, or otherwise furnishes a substance to a
24 licensed pharmacy ~~((or))~~, practitioner, or Chinese herbal practitioner
25 as described in (c) of this subsection;

26 ~~((4))~~ (e) Any sale, transfer, furnishing, or receipt of any drug
27 that contains ephedrine, phenylpropanolamine, or pseudoephedrine ~~((, or~~
28 of any cosmetic that contains a substance specified in RCW
29 69.43.010(1),)) or their salts, isomers, or salts of isomers if:

30 (i) The compound, mixture, or preparation is in liquid, liquid
31 capsule, or gel capsule form;

32 (ii) The ephedrine, phenylpropanolamine, or pseudoephedrine is not
33 the only active ingredient; and

34 (iii) Such drug ~~((or cosmetic))~~ is lawfully sold, transferred, or
35 furnished, over the counter without a prescription under chapter 69.04
36 or 69.41 RCW; or

1 (iv) Such drug consists of a glycerin matrix that inhibits
2 conversion into a controlled substance;

3 (f) Any sale, transfer, furnishing, or receipt of any cosmetic that
4 contains a substance specified in RCW 69.43.010(1) if the cosmetic is
5 lawfully sold, transferred, or furnished, over the counter without a
6 prescription under chapter 69.04 or 69.41 RCW.

7 (2) The state board of pharmacy, by rule, may exempt compounds,
8 mixtures, or preparations containing ephedrine, phenylpropanolamine, or
9 pseudoephedrine or their salts, isomers, or salts of isomers if the
10 product is determined to have been formulated in such a way as to
11 effectively prevent conversion of the active ingredient into
12 methamphetamine.

13 NEW SECTION. Sec. 3. A new section is added to chapter 69.43 RCW
14 to read as follows:

15 (1) Any shopkeeper, itinerant vendor, or pharmacy who sells,
16 transfers, or otherwise furnishes any compound, mixture, or preparation
17 containing ephedrine, phenylpropanolamine, or pseudoephedrine or their
18 salts, isomers, or salts of isomers to any other person shall maintain
19 a record of each sale or transfer. The records must contain:

- 20 (a) The name of the substance;
21 (b) The quantity of the substance sold, transferred, or furnished;
22 (c) The date the substance was sold, transferred, or furnished;
23 (d) The name of the person buying or receiving the substance; and
24 (e) The method of and amount of payment for the substance.

25 (2) The records of sales and transfers required by this section
26 must be available for inspection by the state board of pharmacy and its
27 authorized representatives and must be maintained for two years.

28 (3) A violation of this section is a gross misdemeanor.

29 NEW SECTION. Sec. 4. A new section is added to chapter 69.43 RCW
30 to read as follows:

31 (1) Any compound, mixture, or preparation containing ephedrine,
32 phenylpropanolamine, or pseudoephedrine or their salts, isomers, or
33 salts of isomers as the only active ingredient shall only be sold,
34 dispensed, or distributed by a licensed pharmacist or a licensed
35 pharmacy technician.

1 (2) The licensed pharmacist or licensed pharmacy technician shall
2 maintain the records required by section 3 of this act.

3 NEW SECTION. **Sec. 5.** A new section is added to chapter 69.43 RCW
4 to read as follows:

5 (1) Any compound, mixture, or preparation containing ephedrine,
6 phenylpropanolomine, or pseudoephedrine or their salts, isomers, or
7 salts of isomers in combination with another active ingredient may be
8 sold in a pharmacy or by a shopkeeper or itinerant vendor licensed by
9 the board of pharmacy, but must be kept in a location that is not
10 accessible by customers without assistance by an employee of the
11 merchant.

12 (2) The shopkeeper, itinerant vendor, or pharmacy shall maintain
13 the records required by section 3 of this act.

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