
HOUSE BILL 1236

State of Washington 61st Legislature 2009 Regular Session

By Representatives Wallace, Campbell, Morrell, Moeller, and Ormsby

Read first time 01/15/09. Referred to Committee on Public Safety & Emergency Preparedness.

1 AN ACT Relating to classifying ephedrine, pseudoephedrine, and
2 phenylpropanolamine as Schedule III controlled substances; amending RCW
3 69.50.4013; adding a new section to chapter 69.50 RCW; repealing RCW
4 69.43.105, 69.43.110, 69.43.120, 69.43.130, and 69.43.170; and
5 providing an effective date.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 69.50 RCW
8 to read as follows:

9 (1) The board shall adopt rules to take effect on January 1, 2010,
10 to classify ephedrine, pseudoephedrine, and phenylpropanolamine as
11 Schedule III controlled substances. The Schedule III classification
12 may be modified by the board if the board, upon consultation with state
13 and local law enforcement, finds that Schedule III restrictions on
14 products containing ephedrine, pseudoephedrine, or phenylpropanolamine
15 do not significantly reduce the prevalence of the illegal manufacture
16 of methamphetamine in Washington.

17 (2)(a) This section does not apply to products that the board, upon
18 application of a manufacturer, exempts by rule because the product is
19 formulated to effectively prevent conversion of the active ingredient

1 into methamphetamine or its salts or precursors. The board shall
2 collaborate with the forensic laboratory services bureau of the
3 Washington state patrol during the rule-making process.

4 (b) Upon notification of the forensic laboratory services bureau of
5 the Washington state patrol that it has probable cause to believe that
6 a product exempted under (a) of this subsection does not effectively
7 prevent conversion of the active ingredient into methamphetamine or its
8 salts or precursors, the board may issue a summary suspension of the
9 exemption for the product pending the completion of the rule-making
10 process to permanently revoke the exemption.

11 (3) Records of transactions involving products containing
12 ephedrine, pseudoephedrine, or phenylpropanolamine are subject to
13 inspection by the board and law enforcement agencies. A person
14 required to make or maintain records of transactions involving products
15 containing ephedrine, pseudoephedrine, or phenylpropanolamine shall
16 forward the records to a law enforcement agency if directed to do so by
17 that agency.

18 **Sec. 2.** RCW 69.50.4013 and 2003 c 53 s 334 are each amended to
19 read as follows:

20 (1) It is unlawful for any person to possess a controlled substance
21 unless the substance was obtained directly from, or pursuant to, a
22 valid prescription or order of a practitioner while acting in the
23 course of his or her professional practice, or except as otherwise
24 authorized by this chapter.

25 (2) It is an affirmative defense which the defendant must prove by
26 a preponderance of the evidence to a charge of violating subsection (1)
27 of this section by unlawfully possessing ephedrine, pseudoephedrine, or
28 phenylpropanolamine that the person:

29 (a) Obtained the ephedrine, pseudoephedrine, or phenylpropanolamine
30 lawfully;

31 (b) Possessed no more than six grams of ephedrine, pseudoephedrine,
32 or phenylpropanolamine, the salts, isomers, or salts of isomers of
33 ephedrine, pseudoephedrine, or phenylpropanolamine, or a combination of
34 any of these substances; and

35 (c) Possessed the ephedrine, pseudoephedrine, or
36 phenylpropanolamine under circumstances that are consistent with
37 typical medicinal or household use, as indicated by factors that

1 include, but are not limited to, storage location, purchase date,
2 possession of the products in a variety of strengths, brands, types or
3 purposes, and expiration dates.

4 (3) Except as provided in RCW 69.50.4014, any person who violates
5 this section is guilty of a class C felony punishable under chapter
6 9A.20 RCW.

7 NEW SECTION. **Sec. 3.** The following acts or parts of acts, as now
8 existing or hereafter amended, are each repealed, effective January 1,
9 2010:

10 (1) RCW 69.43.105 (Ephedrine, pseudoephedrine,
11 phenylpropanolamine--Sales restrictions--Exceptions--Penalty) and 2005
12 c 388 s 2;

13 (2) RCW 69.43.110 (Ephedrine, pseudoephedrine,
14 phenylpropanolamine--Sales restrictions--Penalty) and 2005 c 388 s 4,
15 2004 c 52 s 5, & 2001 c 96 s 9;

16 (3) RCW 69.43.120 (Ephedrine, pseudoephedrine,
17 phenylpropanolamine--Possession of more than fifteen grams--Penalty--
18 Exceptions) and 2001 c 96 s 10;

19 (4) RCW 69.43.130 (Exemptions--Pediatric products--Products
20 exempted by the state board of pharmacy) and 2004 c 52 s 7 & 2001 c 96
21 s 11; and

22 (5) RCW 69.43.170 (Ephedrine, pseudoephedrine,
23 phenylpropanolamine--Pilot project to record retail transactions--
24 Penalty) and 2005 c 388 s 8.

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