
SENATE BILL 5123

State of Washington 59th Legislature 2005 Regular Session

By Senators Kastama, Rasmussen, Regala and Franklin

Read first time 01/13/2005. Referred to Committee on Judiciary.

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(~~(,)~~) or wholesaler(~~(, , retailer, or other~~
28 ~~person)~~) shall, before selling, transferring, or otherwise furnishing
29 any substance specified in subsection (1) of this section to any
30 person, 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(~~(τ)~~) or wholesaler(~~(τ , retailer, or other~~
14 ~~person)~~) who sells, transfers, or otherwise furnishes the substance
15 specified in subsection (1) of this section to any person shall, not
16 less than twenty-one days before delivery of the substance, submit a
17 report of the transaction, which includes the identification
18 information specified in subsection (3) of this section to the state
19 board of pharmacy. However, the state board of pharmacy may authorize
20 the submission of the reports on a monthly basis with respect to
21 repeated, regular transactions between the furnisher and the recipient
22 involving the same substance if the state board of pharmacy determines
23 that 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 retailer or other person, before selling, transferring, or
34 otherwise furnishing any drug or cosmetic that contains ephedrine,
35 phenylpropanolamine, or pseudoephedrine or their salts, isomers, or
36 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 manufacturer or wholesaler licensed by the state
17 board of pharmacy who sells, transfers, or otherwise furnishes a
18 substance to a licensed pharmacy or practitioner;

19 ~~((4))~~ (d) Any sale, transfer, furnishing, or receipt of any drug
20 that contains ephedrine, phenylpropanolamine, or pseudoephedrine
21 ~~(, or~~
22 ~~of any cosmetic that contains a substance specified in RCW~~
23 ~~69.43.010(1),~~) or their salts, isomers, or salts of isomers if:

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

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

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

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

33 (e) Any sale, transfer, furnishing, or receipt of any cosmetic that
34 contains a substance specified in RCW 69.43.010(1) if the cosmetic is
35 lawfully sold, transferred, or furnished, over the counter without a
36 prescription under chapter 69.04 or 69.41 RCW.

37 (2) The state board of pharmacy, by rule, may exempt compounds,
38 mixtures, or preparations containing ephedrine, phenylpropanolamine, or

1 pseudoephedrine or their salts, isomers, or salts of isomers if the
2 product is determined to have been formulated in such a way as to
3 effectively prevent conversion of the active ingredient into
4 methamphetamine.

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

7 (1) Any retailer or other person who sells, transfers, or otherwise
8 furnishes any compound, mixture, or preparation containing ephedrine,
9 phenylpropanolamine, or pseudoephedrine or their salts, isomers, or
10 salts of isomers to any other person shall maintain a record of each
11 sale or transfer. The records must contain:

- 12 (a) The name of the substance;
13 (b) The quantity of the substance sold, transferred, or furnished;
14 (c) The date the substance was sold, transferred, or furnished;
15 (d) The name of the person buying or receiving the substance; and
16 (e) The method of and amount of payment for the substance.

17 (2) The records of sales and transfers required by this section
18 must be available for inspection by the state board of pharmacy and its
19 authorized representatives and must be maintained for one year.

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

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

23 (1) Any compound, mixture, or preparation containing ephedrine,
24 phenylpropanolamine, or pseudoephedrine or their salts, isomers, or
25 salts of isomers as the only active ingredient shall only be sold,
26 dispensed, or distributed by a licensed pharmacist or a licensed
27 pharmacy technician.

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

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

32 (1) Any compound, mixture, or preparation containing ephedrine,
33 phenylpropanolomine, or pseudoephedrine or their salts, isomers, or
34 salts of isomers in combination with another active ingredient may be
35 sold in a pharmacy or a nonprescription drug outlet licensed by the

1 board of pharmacy, but must be kept in a location that is not
2 accessible by customers without assistance by an employee of the
3 merchant.

4 (2) The retailer or other person shall maintain the records
5 required by section 3 of this act.

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