

SENATE BILL NO. 48

INTRODUCED BY C. VINCENT

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING ELECTRONIC REPORTING OF EPHEDRINE OR PSEUDOEPHEDRINE SALES; AMENDING SECTION 50-32-502, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 50-32-502, MCA, is amended to read:

"50-32-502. Restricted sale and access to ephedrine or pseudoephedrine products -- exceptions

-- penalties. (1) The retail sale of a product that contains any detectable quantity of ephedrine or pseudoephedrine, their salts or optical isomers, or salts of optical isomers may be made only in a pharmacy licensed pursuant to Title 37, chapter 7, or a retail establishment that is certified by the department of justice pursuant to subsection (2).

(2) (a) If there is not a licensed community pharmacy within a county, then a retail establishment may apply to the department of justice for certification as an establishment that is allowed to sell products that contain any detectable quantity of ephedrine or pseudoephedrine, their salts or optical isomers, or salts of optical isomers.

(b) The department of justice shall adopt rules to establish criteria for the certification of retail establishments with the intent to limit the available supply of ephedrine and pseudoephedrine to prevent the manufacture of methamphetamine.

(c) The department of justice may certify a retail establishment based on the criteria adopted by rule.

(3) Except as provided in subsection (5), a licensed pharmacy or certified retail establishment provided for in subsection (1) that dispenses, sells, or distributes products containing ephedrine or pseudoephedrine shall:

(a) display the products containing ephedrine or pseudoephedrine behind the store counter in an area that is not accessible to customers or in a locked case so that a customer is required to ask an employee of the licensed pharmacy or certified retail establishment for assistance in purchasing the product;

(b) limit sales to packages containing no more than a total of 9 grams;

(c) require the person purchasing, receiving, or otherwise acquiring any product, mixture, or preparation

1 containing ephedrine or pseudoephedrine to produce a driver's license or other form of photo identification and
2 sign a record of sale or acquisition that includes the date of the transaction, the name of the person purchasing
3 or acquiring the ephedrine or pseudoephedrine, and the number of grams of the product, mixture, or preparation
4 purchased or acquired;

5 (d) take action as necessary to ensure that a person does not purchase or acquire more than 9 grams
6 of ephedrine or pseudoephedrine from the licensed pharmacy or certified retail establishment provided for in
7 subsection (1) in any 30-day period.

8 (4) A licensed pharmacy or certified retail establishment provided for in subsection (1) that dispenses,
9 sells, or distributes products containing ephedrine or pseudoephedrine shall maintain all records made under
10 subsection (3) in a secure, centralized location. Each record must be maintained by the licensed pharmacy or
11 certified retail establishment provided for in subsection (1) for 2 years. The licensed pharmacy or certified retail
12 establishment provided for in subsection (1) shall ~~provide access to sales records by law enforcement officials~~
13 electronically report the information required in subsection (3)(c) to the department of justice before completing
14 the transaction.

15 (5) This section does not apply to:

16 (a) any quantity of a product, mixture, or preparation dispensed pursuant to a valid prescription;

17 (b) products containing ephedrine or pseudoephedrine that are in liquid, liquid capsule, or gel capsule
18 form if ephedrine or pseudoephedrine is not the only active ingredient;

19 (c) a product that the board, upon application by a manufacturer, exempts from this section by rule
20 because the product has been formulated in a manner as to effectively prevent the conversion of the active
21 ingredient into methamphetamine or its salts or precursors.

22 (6) A person who knowingly or negligently violates any provision of this section is guilty of a
23 misdemeanor and shall be punished by a fine of not less than \$100 or more than \$500 and by imprisonment in
24 the county jail for not more than 1 year."

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26 **NEW SECTION. Section 2. Effective date.** [This act] is effective January 1, 2016.

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