

1 AN ACT relating to purchase limits for pseudoephedrine.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 218A.1446 is amended to read as follows:

4 (1) Any compound, mixture, or preparation containing any detectable quantity of
5 ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers,
6 or salts of optical isomers shall be dispensed, sold, or distributed only by a
7 registered pharmacist, a pharmacy intern, or a pharmacy technician.

8 (2) Any person purchasing, receiving, or otherwise acquiring any nonprescription
9 compound, mixture, or preparation containing any detectable quantity of ephedrine,
10 pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of
11 optical isomers shall:

12 (a) Produce a government-issued photo identification showing the date of birth of
13 the person; and

14 (b) Sign a log or record showing the:

15 1. Date of the transaction;

16 2. Name, date of birth, and address of the person making the purchase; and

17 3. The amount and name of the compound, mixture, or preparation.

18 Only an electronic logging or recordkeeping mechanism approved by the Office of
19 Drug Control Policy may be utilized to meet the requirements of this subsection. No
20 pharmacy may dispense or sell any compound, mixture, or preparation containing
21 any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine,
22 their salts or optical isomers, or salts of optical isomers unless the electronic
23 logging or recordkeeping mechanism required by this section is provided at no cost
24 to the pharmacy.

25 (3) An electronic log or record, as described in subsection (2) of this section, shall be
26 kept of each day's transactions. The registered pharmacist, a pharmacy intern, or a
27 pharmacy technician shall initial the entry of each sale in the log, evidencing

1 completion of each transaction. The log shall be:

2 (a) Kept for a period of two (2) years; and

3 (b) Subject to random and warrantless inspection by city, county, or state law
4 enforcement officers.

5 (4) (a) Intentional failure of a registered pharmacist, a pharmacy intern, or a
6 pharmacy technician to make an accurate entry of a sale of a product or failure
7 to maintain the log records as required by this section may subject him or her
8 to a fine of not more than one thousand dollars (\$1,000) for each violation and
9 may be evidence of a violation of KRS 218A.1438.

10 (b) If evidence exists that the pharmacist's, the pharmacy intern's, or the
11 pharmacist technician's employer fails, neglects, or encourages incorrect entry
12 of information by improper training, lack of supervision or oversight of the
13 maintenance of logs, or other action or inaction, the employer shall also face
14 liability under this section and any other applicable section of this chapter.

15 (c) It shall be a defense to a violation of this section that the person proves that
16 circumstances beyond the control of the registered pharmacist, pharmacy
17 intern, or pharmacy technician delayed or prevented the making of the record
18 or retention of the record as required by this section. Examples of
19 circumstances beyond the control of the registered pharmacist, pharmacy
20 intern, or pharmacy technician include but are not limited to:

21 1. Fire, natural or manmade disaster, loss of power, and similar events;

22 2. Robbery, burglary, shoplifting, or other criminal act by a person on the
23 premises;

24 3. A medical emergency suffered by the registered pharmacist, pharmacy
25 intern, or pharmacy technician, another employee of the establishment, a
26 customer, or any other person on the premises; or

27 4. Some other circumstance that establishes that an omission was

1 inadvertent.

- 2 (5) No person shall purchase, receive, or otherwise acquire any product, mixture, or
3 preparation or combinations of products, mixtures, or preparations containing more
4 than seven and one-fifth (7.2) grams of ephedrine, pseudoephedrine, or
5 phenylpropanolamine, their salts or optical isomers, or salts of optical isomers
6 within any thirty (30) day period~~[or twenty-four (24) grams within any one (1) year~~
7 ~~period]~~, provided that this limit~~[either of these limits]~~ shall not apply to any
8 quantity of product, mixture or preparation dispensed pursuant to a valid
9 prescription.~~[In addition to the thirty (30) day and the one (1) year restrictions, no~~
10 ~~person shall purchase, receive, or otherwise acquire more than three (3) packages of~~
11 ~~any product, mixture, or preparation containing ephedrine, pseudoephedrine, or~~
12 ~~phenylpropanolamine, their salts or optical isomers, or salts of optical isomers~~
13 ~~during each transaction.]~~
- 14 (6) A person under eighteen (18) years of age shall not purchase or attempt to purchase
15 any quantity of a nonprescription ephedrine, pseudoephedrine, or
16 phenylpropanolamine product as described in subsection (1) of this section. No
17 person shall aid or assist a person under eighteen (18) years of age in purchasing
18 any quantity of a nonprescription ephedrine, pseudoephedrine, or
19 phenylpropanolamine product as described in subsection (1) of this section.
- 20 (7) The requirements of this section shall not apply to any compounds, mixtures, or
21 preparation containing ephedrine, pseudoephedrine, or phenylpropanolamine, their
22 salts or optical isomers, or salts of optical isomers which are in liquid, liquid
23 capsule, or gel capsule form or to any compounds, mixtures, or preparations
24 containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts or
25 optical isomers which are deemed to be not subject to abuse upon joint review and
26 agreement of the Office of Drug Control Policy, the Board of Pharmacy, and the
27 Cabinet for Health and Family Services.

- 1 (8) The provisions of this section shall not apply to a:
- 2 (a) Licensed manufacturer manufacturing and lawfully distributing a product in
- 3 the channels of commerce;
- 4 (b) Wholesaler lawfully distributing a product in the channels of commerce;
- 5 (c) Pharmacy with a valid permit from the Kentucky Board of Pharmacy;
- 6 (d) Health care facility licensed pursuant to KRS Chapter 216B;
- 7 (e) Licensed long-term care facility;
- 8 (f) Government-operated health department;
- 9 (g) Physician's office;
- 10 (h) Publicly operated prison, jail, or juvenile correctional facility, or a private
- 11 adult or juvenile correctional facility under contract with the Commonwealth;
- 12 (i) Public or private educational institution maintaining a health care program; or
- 13 (j) Government-operated or industrial medical facility serving its own
- 14 employees.
- 15 (9) The provisions of this section shall supersede and preempt all local laws,
- 16 ordinances, and regulations pertaining to the sale of any compounds, mixtures, or
- 17 preparation containing ephedrine, pseudoephedrine, phenylpropanolamine, their
- 18 salts or optical isomers, or salts of optical isomers.
- 19 (10) To be approved for use under this section, a logging or recordkeeping system shall:
- 20 (a) Be designed to block the dispensing of any compound, mixture, or preparation
- 21 containing ephedrine, pseudoephedrine, phenylpropanolamine, their salts or
- 22 optical isomers, or salts of optical isomers, where the dispensing would
- 23 exceed the quantity limitations established in this section or would be
- 24 prohibited under KRS 218A.1440; and
- 25 (b) Allow unimpeded access by the Office of Drug Control Policy to any data
- 26 stored in the system for statistical analysis purposes.
- 27 (11) The Office of Drug Control Policy shall prepare and submit to the Legislative

1 Research Commission an annual statistical report on the sale of compounds,
2 mixtures, or preparations containing ephedrine, pseudoephedrine,
3 phenylpropanolamine, their salts or optical isomers, or salts of optical isomers,
4 including state and county sale amounts and numbers of individual purchasers.