

State of South Dakota

EIGHTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2014

400V0383

SENATE JUDICIARY ENGROSSED NO. **SB 24** 01/23/2014

Introduced by: The Committee on Judiciary at the request of the Office of the Attorney
General

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to pseudoephedrine,
2 ephedrine, or phenylpropanolamine sales.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 34-20D-8 be amended to read as follows:

5 34-20D-8. If offering for sale a product containing pseudoephedrine ~~or, ephedrine, or~~
6 phenylpropanolamine as an active ingredient, a retailer shall, before making such a sale, require
7 and make a record of the identification of the person purchasing the product ~~containing~~
8 ~~pseudoephedrine or ephedrine~~. For purposes of this section, the term, identification, means a
9 document issued by a governmental agency ~~which~~ that contains a description of the person or
10 a photograph of the person, ~~or both,~~ and gives the person's date of birth, such as a tribal
11 identification card, driver license, state-issued identification card, passport, or military
12 identification card. The retailer shall ~~maintain~~ electronically submit the record of identification,
13 including the purchaser's name ~~and,~~ date of birth, address of purchaser, the product name, the
14 quantity sold, the date and time of the sale, and unique identification number relating to the



1 electronic record into the electronic record-keeping system prior to completing the sale of a
2 product containing pseudoephedrine, ephedrine, or phenylpropanolamine unless a waiver has
3 been granted. ~~On August 1, 2006, and no later than the fifth day of every month thereafter, the~~
4 ~~retailer shall submit, electronically or in writing, any such records to the Office of the Attorney~~
5 ~~General.~~ If a waiver is granted, the retailer shall submit written records to the Office of the
6 Attorney General no later than the fifth day of every month. The retailer shall maintain the
7 record of identification required by this section for two years, after which the record shall be
8 destroyed. No retailer may use or maintain the record for any private or commercial purpose or
9 disclose the record to any person, except as authorized by law. ~~The retailer shall disclose the~~
10 ~~record, upon request, to a law enforcement agency for a law enforcement purpose.~~ If the sale
11 generates a stop-sale alert, the seller may not complete the sale unless the seller has a reasonable
12 fear of imminent bodily harm if he or she does not complete the sale. The electronic record-
13 keeping system shall contain an override function to the stop-sale alert for the seller to use in
14 a situation in which a reasonable fear of imminent bodily harm is present.

15 Section 2. That chapter 34-20D be amended by adding thereto a NEW SECTION to read
16 as follows:

17 The Office of the Attorney General may provide retailers of chemical products containing
18 pseudoephedrine, ephedrine, or phenylpropanolamine access to a real-time electronic record-
19 keeping system to enter into the record system any transaction required by § 34-20D-8. The real-
20 time electronic record-keeping system shall be maintained in a central repository and shall have
21 the capability to calculate state and federal ephedrine base, pseudoephedrine base, and
22 phenylpropanolamine base purchase limitations. The electronic record-keeping system shall
23 include a record of all the information obtained under section 1 of this Act and the unique
24 identification number, type, and state of issue. The Office of the Attorney General may contract

1 with a private vendor to implement this section. A contractor shall comply with the
2 confidentiality requirements of this chapter and is subject to sanctions for violation of
3 confidentiality requirements, including termination of the contract. No cost may be assessed to
4 the retailer associated with the implementation, access, continuation, or maintenance of the
5 electronic record-keeping system.

6 Section 3. That chapter 34-20D be amended by adding thereto a NEW SECTION to read
7 as follows:

8 The attorney general may grant a retailer a waiver pursuant to section 1 of this Act if the
9 retailer demonstrates that the electronic reporting will cause the retailer an undue economic
10 hardship or that the retailer does not have the technological ability to report electronically. If a
11 waiver is granted, the retailer shall disclose the record, upon request, to a law enforcement
12 agency for a law enforcement purpose.

13 Section 4. That chapter 34-20D be amended by adding thereto a NEW SECTION to read
14 as follows:

15 The attorney general may grant other South Dakota law enforcement agencies access to the
16 electronic record-keeping system for the purpose of investigating any violation of this chapter.