GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

SESSION LAW 2006-186
SENATE BILL 686

AN ACT TO AMEND RESTRICTIONS ON THE PURCHASE AND SALE OF PSEUDOEPHEDRINE PRODUCTS CONTAINED IN ARTICLE 5D OF CHAPTER 90 OF THE GENERAL STATUTES, THE "METHAMPHETAMINE LAB PREVENTION ACT OF 2005," IN ORDER TO COMPLY WITH FEDERAL LAW, AND TO MAKE OTHER CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-113.52 reads as rewritten:

"**§ 90-113.52. Pseudoephedrine: restrictions on sales.**

(a) A pseudoephedrine product ~~whose sole active ingredient is pseudoephedrine in strength of 30 milligrams or more per tablet or caplet~~in the form of a tablet, caplet, or gel cap shall not be offered for retail sale loose in bottles but shall be sold only in blister packages.

(b) Pseudoephedrine products shall not be offered for retail sale by self-service, but shall be stored and sold in the following manner: Any pseudoephedrine product in the form of a tablet or caplet containing pseudoephedrine as the sole active ingredient or in combination with other active ingredients shall be stored and sold behind a pharmacy counter.

(c) A pseudoephedrine product may be sold at retail without a prescription only to a person at least 18 years of age. The retailer shall require every retail purchaser of a pseudoephedrine product to furnish photo identification. If the retailer has reasonable grounds to believe that the prospective purchaser is under 18 years of age, the retailer shall require the prospective purchaser to furnish photo identification showing the date of birth of the person. The name and address of every purchaser shall be entered in a record of disposition of pseudoephedrine products to the consumer on a form approved by the Commission. The record of disposition shall also identify each pseudoephedrine product purchased, including the number of grams the product contains and the purchase date of the transaction. The retailer shall require that every purchaser sign the form attesting to the validity of the information. The form approved by the Commission shall be constructed so that it allows for entry of information in electronic format, including electronic signature. The form shall also be constructed and maintained so as to minimize disclosure of personal information to unauthorized persons and shall contain a statement in at least 10-point boldface type at the top of every page substantially similar to the following: "NORTH CAROLINA LAW STRICTLY PROHIBITS ~~A SINGLE TRANSACTION~~THE PURCHASE OF MORE THAN TWO PACKAGES OF CERTAIN PRODUCTS CONTAINING PSEUDOEPHEDRINE (3.6 GRAMS TOTAL) PER DAY, ~~(SIX GRAMS TOTAL), AND NO~~ MORE THAN THREE PACKAGES ~~(NINE (~~9 GRAMS TOTAL) OF CERTAIN PRODUCTS CONTAINING PSEUDOEPHEDRINE WITHIN A 30-DAY PERIOD. BY MY SIGNATURE, I ATTEST THAT THE INFORMATION I HAVE PROVIDED IN CONNECTION WITH THIS TRANSACTION IS TRUE AND CORRECT AND THAT THIS TRANSACTION DOES NOT EXCEED THE PURCHASE RESTRICTIONS. I ACKNOWLEDGE THAT KNOWING AND WILLFUL VIOLATION OF THE PURCHASE RESTRICTIONS OR THE FURNISHING OF FALSE INFORMATION IN CONNECTION THEREWITH MAY SUBJECT ME TO

CRIMINAL PENALTIES." If the form attesting to the validity of this information is to be signed by the purchaser in electronic format, the retailer may choose to display in a clear and conspicuous manner the statement on a sign to be placed immediately adjacent to the device on which the electronic signature will be obtained, in lieu of including the full statement in electronic format. If the retailer chooses to display the statement on a sign rather than in electronic format, the retailer shall: (i) instruct the purchaser prior to signing to read the statement; and (ii) include on the form for signature contained in the electronic device a statement substantially similar to the following: "I have read, understand, and agree with the statement just shown to me concerning the requirements under State law pertaining to pseudoephedrine purchases." Display of the sign in this manner shall satisfy the signage requirements of G.S. 90-113.54.

(d) A retailer shall maintain a record of disposition of pseudoephedrine products to the consumer for a period of two years from the date of each transaction. A record shall be readily available within 48 hours of the time of the transaction for inspection by an authorized official of a federal, State, or local law enforcement agency. The records maintained by a retailer are privileged information and are not public records but are for the exclusive use of the retailer and law enforcement. The retailer may destroy the information after two years from the date of the transactions.

(e) This section does not apply to any pseudoephedrine product that is in the form of a liquid, liquid capsule, gel capsule, or pediatric product labeled pursuant to federal regulation primarily intended for administration to children under 12 years of age according to label instruction, except as to those specific products for which the Commission issues an order pursuant to G.S. 90-113.58 subjecting the product to requirements under this Article."

SECTION 2. G.S. 90-113.53 reads as rewritten:

"**§ 90-113.53. Pseudoephedrine transaction limits.**

(a) No person shall deliver to any one person, attempt to deliver to any one person, purchase, or attempt to purchase at retail more than two packages containing a combined total of more than 3.6 grams of any pseudoephedrine products per calendar day. ~~No person shall deliver or purchase, or attempt to deliver or purchase, in any single over-the-counter retail sale more than two packages containing a combined total of more than six grams of any pseudoephedrine products.~~ This limit does not apply if the product is dispensed under a valid prescription.

(b) No person shall purchase at retail more than three packages containing a combined total of more than ~~nine~~ 9 grams of pseudoephedrine products within any 30-day period. This limit does not apply if the product is dispensed under a valid prescription.

(c) This section does not apply to any pseudoephedrine products that are in the form of liquids, liquid capsules, gel capsules, or pediatric products labeled pursuant to federal regulation primarily intended for administration to children under 12 years of age according to label instruction, except as to those specific products for which the Commission issues an order pursuant to G.S. 90-113.58 subjecting the product to requirements under this Article."

SECTION 3. G.S. 90-113.54 reads as rewritten:

"**§ 90-113.54. Posting of signs.**

(a) A retailer shall post a sign or placard in a clear and conspicuous manner in the area of the premises where the pseudoephedrine products are offered for sale ~~stating:~~ substantially similar to the following: "North Carolina law strictly prohibits ~~a single transaction~~the purchase of more than two packages ~~(six~~ (3.6 grams total) of certain products containing pseudoephedrine per day, and ~~no~~ more than three packages ~~(nine~~(9 grams total) of certain products containing pseudoephedrine within a 30-day period. This store will maintain a record of all sales of these products which may be accessible to law enforcement officers.

(b) This section does not apply to any pseudoephedrine products that are in the form of liquids, liquid capsules, gel capsules, or pediatric products labeled pursuant to

federal regulation primarily intended for administration to children under 12 years of age according to label instruction, except as to those specific products for which the Commission issues an order pursuant to G.S. 90-113.58 subjecting the product to requirements under this Article."

SECTION 4. Article 5D of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-113.61. Regulation of pseudoephedrine products in the form of liquids, liquid capsules, gel capsules, and pediatric products.**

Except as to those specific products for which the Commission issues an order pursuant to G.S. 90-113.58 subjecting the product to requirements under this Article, any pseudoephedrine products that are in the form of liquids, liquid capsules, gel capsules, or pediatric products labeled pursuant to federal regulation primarily intended for administration to children under 12 years of age according to label instruction shall not be subject to requirements under this Article, but such products shall be subject to the requirements of the Combat Methamphetamine Act of 2005, Title VII of the USA PATRIOT Improvement and Reauthorization Act of 2005, P.L. 109-177."

SECTION 5. Section 4 of this act becomes effective September 30, 2006. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 20th day of July, 2006.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 11:52 a.m. this 3rd day of August, 2006