Individuals and Businesses Permitted to Sell Over the Counter Ephedrine and Pseudoephedrine Products

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Several states lack statutory or regulatory language regulating who is permitted to sell over-the-counter products containing ephedrine and pseudoephedrine. Those states are: Connecticut, Maryland, Massachusetts, New Hampshire, New York, Pennsylvania and Rhode Island.

Alabama

Code of Alabama
Title 20. Food, Drugs, and Cosmetics.
Chapter 2. Controlled Substances.
Article 9. . Precursor Chemicals.
§ 20-2-190. Penalties; sale of ephedrine, etc.; Alabama Drug Abuse Task Force.

(a) Any person who manufactures, sells, transfers, receives, or possesses a listed precursor chemical violates this article if the person:

…

(c)(1) It shall be unlawful for any person, business, or entity to knowingly sell any ephedrine or pseudoephedrine, their salts or optical isomers, or salts of optical isomers unless sold from a pharmacy licensed by the Alabama Board of Pharmacy. Any ephedrine or pseudoephedrine, their salts or optical isomers, or salts of optical isomers sold within a pharmacy must be sold by an individual licensed as a pharmacist, a pharmacy technician licensed by the Alabama Board of Pharmacy, or by an employee of the pharmacy under the direct supervision and control of a licensed pharmacist.

…

(8) A pharmacist who is the general owner or operator of an establishment where ephedrine or pseudoephedrine products are available for sale shall not be penalized pursuant to this section for conduct of an employee if the retailer documents that an employee training program was conducted by or approved by the Alabama Drug Abuse Task Force (ADATF), pursuant to subsection (h). As provided in subsection (h), the Alabama Board of Pharmacy shall develop or approve all training programs for those pharmacy employees referenced in subdivision (1) and submit such programs to the ADATF for approval. The ADATF must review any training programs submitted by the Alabama Board of Pharmacy at its next subsequent called or scheduled public meeting and within 7 days, report its decision in writing to the Alabama Board of Pharmacy.

(9) A violation of subdivision (1), (2), (3), or (4) shall constitute a Class A misdemeanor on a first offense and a Class C felony on subsequent offenses. The violations shall be punishable as provided by law.

…

(f) Beginning October 1, 2005, every retailer of ephedrine or pseudoephedrine, or a product containing ephedrine or pseudoephedrine, is required to be registered with the Alcoholic Beverage Control Board to lawfully sell ephedrine or pseudoephedrine products to consumers.

…

Alaska

Alaska Statutes Annotated
Title 17. Food and Drugs
Chapter 30. Controlled Substances
Article 1. Regulation of Manufacture, Distribution, Prescription, and Dispensing of Controlled Substances
§ 17.30.090. Sale or purchase of certain listed chemicals

(a) A seller, retailer, or vendor may not sell for personal use and a person may not purchase for personal use

ephedrine base, pseudoephedrine base, or phenylpropanolamine base, as those terms are used in P.L. 109-177, 120 Stat. 192, unless that sale or purchase complies with and meets the requirements of P.L. 109-177, 120 Stat. 192, with regard to amounts, identification required, storage, access and availability, and logbooks. A seller, retailer, or vendor shall maintain the logbook for the period required under P.L. 109- 177, 120 Stat. 192, and shall allow law enforcement officers access to the logbook. Each seller, retailer, and vendor shall provide training to the seller's, retailer's, or vendor's employees and agents in the requirements of this section. The Department of Public Safety shall provide assistance and information to sellers, retailers, and vendors to meet the requirements of this section.

…

Arizona

Arizona Revised Statutes Annotated
Title 13. Criminal Code
Chapter 34. Drug Offenses
§ 13-3401. Definitions

In this chapter, unless the context otherwise requires:

…

26. "Precursor chemical I" means any material, compound, mixture or preparation which contains any quantity of the following substances and their salts, optical isomers or salts of optical isomers:

…

(c) Ephedrine.

…

(q) Pseudoephedrine.

…

31. "Retailer" means either:

(a) A person other than a practitioner who sells any precursor chemical or regulated chemical to another person for purposes of consumption and not resale, whether or not the person possesses a permit issued pursuant to title 32, chapter 18.

(b) A person other than a manufacturer or wholesaler who purchases, receives or acquires more than twenty-four grams of a precursor chemical.

…

Arizona Revised Statutes Annotated
Title 13. Criminal Code
Chapter 34. Drug Offenses
§ 13-3404.01. Possession or sale of precursor chemicals, regulated chemicals, substances or equipment; exceptions; classification

A. A person shall not do any of the following:

…

2. Knowingly possess more than twenty-four grams of pseudoephedrine, (-)-norpseudoephedrine or phenylpropanolamine without a license or permit issued pursuant to title 32, chapter 18.

3. Knowingly purchase more than three packages, not to exceed nine grams of pseudoephedrine, (-)-norpseudoephedrine or phenylpropanolamine without a valid prescription order as defined in § 32-1901 or a license or permit issued pursuant to title 32, chapter 18.

5. Knowingly purchase any ephedrine that is uncombined or is the sole active ingredient of a product or more than three packages, not to exceed nine grams of ephedrine that is combined with another active ingredient in any ephedrine product without a license or permit issued pursuant to title 32, chapter 18.

…

B. A retailer shall not knowingly sell, transfer or otherwise furnish a precursor chemical unless:

…

2. The retailer has a valid and current permit that is issued pursuant to title 32, chapter 18 and that is prominently displayed at the premises where the transaction occurs.

…

E. A manufacturer shall not sell, transfer or otherwise furnish a precursor chemical to any person unless:

1. The recipient is licensed or has a permit issued pursuant to title 32, chapter 18, is a pharmacy or is a practitioner.

…

H. A violation of subsection A, paragraph 1 or 6 is a class 2 felony. A violation of subsection A, paragraph 2, 3, 4, 5, 7, 9, 11 or 12 is a class 5 felony. A violation of subsection A, paragraph 8 or 10 is a class 6 felony. A violation of subsection B, D or E is a class 5 felony. A violation of subsection C is a class 5 felony, except that if the violation involves less than a total of fifty grams of ephedrine, pseudoephedrine, (-)-norpseudoephedrine or phenylpropanolamine, the first violation is a class 2 misdemeanor and the second violation is a class 1 misdemeanor. An enterprise is not criminally accountable for a violation of subsection C unless the conduct constituting the offense is engaged in, authorized, commanded or recklessly tolerated by the directors of the enterprise in any manner or by a high managerial agent acting within the scope of employment.

Arizona Revised Statutes Annotated
Title 32. Professions and Occupations
Chapter 18. Pharmacy
Article 2. Licensure and Permits
§ 32-1930. Types of permits; restrictions on permits; discontinuance of pharmacy permit

A. On application, the board may issue the following classes or kinds of permits:

1. A nonprescription drug permit to sell, retail, stock, expose or offer for sale at retail nonprescription drugs in the original package. A permittee is not required to conduct business in any fixed place.

…

Arizona Revised Statutes Annotated
Title 36. Public Health and Safety

Chapter 27. Uniform Controlled Substances Act
Article 2. Schedules
§ 36-2516. Substances in schedule V

The following controlled substances or controlled substance precursors are included in schedule V:

…

3. Any compound or preparation containing the single active ingredient ephedrine or any of its salts.

Arizona Revised Statutes Annotated
Title 36. Public Health and Safety
Chapter 27. Uniform Controlled Substances Act
Article 3. Regulation of Manufacture, Distribution and Dispensing of Controlled Substances
§ 36-2525. Prescription orders; labels

…

J. A controlled substance that is listed in schedule III, IV or V and that does not require a prescription order as determined under state or federal laws may be dispensed at retail by a pharmacist, a pharmacy intern or a graduate intern under the pharmacist's supervision without a prescription order to a purchaser who is at least eighteen years of age if all of the following are true:

…

Arkansas

Arkansas Code Annotated
Title 5. Criminal Offenses
Subtitle 6. Offenses Against Public Health, Safety, or Welfare (Chapters 60 to 79)
Chapter 64. Controlled Substances
Subchapter 11. Ephedrine, Pseudoephedrine, Phenylpropanolamine
§ 5-64-1103. Sales limits

(a) It is unlawful for any person, other than a person or entity described in § 5-64-1101(a)(3) and (4), to knowingly sell, transfer, or otherwise furnish in a single transaction a product containing ephedrine, pseudoephedrine, or phenylpropanolamine except in a licensed pharmacy by a licensed pharmacist or a registered pharmacy technician.

(b) Unless the product has been rescheduled pursuant to § 5-64-212(c), this section does not apply to a retail distributor sale for personal use of a product:

(1) That the Department of Health, in collaboration with the Arkansas State Board of Pharmacy, upon application of a manufacturer, exempts by rule from this section because the product has been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine or its salts or precursors; or

(2) Containing ephedrine or pseudoephedrine in liquid, liquid capsule, or liquid gel capsule form if the drug is dispensed, sold, transferred, or otherwise furnished in a single transaction limited to no more than three (3) packages, with any single package containing not more than ninety-six (96) liquid capsules or liquid gel capsules or not more than three grams (3 g) of ephedrine or pseudoephedrine base.

…

(e)(1)(A) A person who violates subsections (a) or (d) of this section for a first or second offense upon conviction is guilty of a Class A misdemeanor and also may be subject to a civil fine not to exceed five thousand dollars ($5,000).

(B) A person who violates subsections (a) or (d) of this section for a third offense upon conviction is guilty of a Class D felony and also may be subject to a civil fine not to exceed five thousand dollars ($5,000).

(C) A person who violates subsections (a) or (d) of this section for a fourth or subsequent offense upon conviction is guilty of a Class C felony and also may be subject to a civil fine not to exceed ten thousand dollars ($10,000).

(2) A plea of guilty or nolo contendere to or a finding of guilt under a penal law of the United States or another state that is equivalent to subsections (a) or (d) of this section is considered a previous offense for purposes of this subsection.

(3)(A) The prosecuting attorney may waive any civil penalty under this section if a person establishes that he or she acted in good faith to prevent a violation of this section, and the violation occurred despite the exercise of due diligence

(B) In making this determination, the prosecuting attorney may consider evidence that an employer trained employees how to sell, transfer, or otherwise furnish substances specified in this subchapter in accordance with applicable laws.

…

Arkansas Code Annotated
Title 5. Criminal Offenses
Subtitle 6. Offenses Against Public Health, Safety, or Welfare (Chapters 60 to 79)
Chapter 64. Controlled Substances
Subchapter 11. Ephedrine, Pseudoephedrine, Phenylpropanolamine
§ 5-64-1105. Definitions

As used in this subchapter:

(1) “Ephedrine”, “pseudoephedrine”, and “phenylpropanolamine” means any product containing ephedrine, pseudoephedrine, or phenylpropanolamine or any of their salts, isomers, or salts of isomers, alone or in a mixture;

…

(3)(A) “Retail distributor” means a grocery store, general merchandise store, drugstore, convenience store, or other related entity, the activities of which, as a distributor of ephedrine, pseudoephedrine, or phenylpropanolamine products, are limited exclusively to the sale for personal use of ephedrine, pseudoephedrine, or phenylpropanolamine products, both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales.

(B) “Retail distributor” includes any person or entity that makes a direct sale or has knowledge of the direct sale.

(C) “Retail distributor” does not include:

(i) Any manager, supervisor, or owner not present and not otherwise aware of the direct sale; or

(ii) The parent company of a grocery store, general merchandise store, drugstore, convenience store, or other related entity if the parent company is not involved in direct sales regulated by this subchapter; and

(4) “Sale for personal use” means the sale in a single transaction to an individual customer for a legitimate medical use of a product containing ephedrine, pseudoephedrine, or phenylpropanolamine in a quantity at or below that specified in § 5-64-1103, and includes the sale of those products to an employer to be dispensed to

employees from a first-aid kit or medicine chest.

California

Annotated California Codes
Health and Safety Code
Division 10. Uniform Controlled Substances Act
Chapter 3. Regulation and Control
Article 1. Reporting
§ 11100. Transactions reported; exemptions; punishment; offenses involving minors

<Section prior to amendment by Stats.2011, c. 15 (A.B.109), eff. April 4, 2011, operative no earlier than Oct. 1, 2011, and only upon the creation and funding of a community corrections grant program. See, also, section as amended by Stats.2011, c. 15 (A.B.109), eff. April 4, 2011, operative no earlier than Oct. 1, 2011, and only upon the creation and funding of a community corrections grant program.>

(a) Any manufacturer, wholesaler, retailer, or other person or entity in this state that sells, transfers, or otherwise furnishes any of the following substances to any person or entity in this state or any other state shall submit a report to the Department of Justice of all of those transactions:

…

(16) Ephedrine.

(17) Pseudoephedrine.

…

(g)…

…

(3) Notwithstanding any other law, it is unlawful for any retail distributor to (i) sell in a single transaction more than three packages of a product that he or she knows to contain ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine, or (ii) knowingly sell more than nine grams of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine, other than pediatric liquids as defined. Except as otherwise provided in this section, the three package per transaction limitation or nine gram per transaction limitation imposed by this paragraph shall apply to any product that is lawfully sold, transferred, or furnished over the counter without a prescription pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.), or regulations adopted thereunder, unless exempted from the requirements of the federal Controlled Substances Act by the federal Drug Enforcement Administration pursuant to Section 814 of Title 21 of the United States Code.

…

(h) For the purposes of this article, the following terms have the following meanings:

(1) “Drug store” is any entity described in Code 5912 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(2) “General merchandise store” is any entity described in Codes 5311 to 5399, inclusive, and Code 5499 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(3) “Grocery store” is any entity described in Code 5411 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(4) “Pediatric liquid” means a nonencapsulated liquid whose unit measure according to product labeling is stated in milligrams, ounces, or other similar measure. In no instance shall the dosage units exceed 15 milligrams of phenylpropanolamine or pseudoephedrine per five milliliters of liquid product, except for liquid products primarily intended for administration to children under two years of age for which the recommended dosage unit does not exceed two milliliters and the total package content does not exceed one fluid ounce.

(5) “Retail distributor” means a grocery store, general merchandise store, drugstore, or other related entity, the activities of which, as a distributor of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine products, are limited exclusively to the sale of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine products for personal use both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales. “Retail distributor” includes an entity that makes a direct sale, but does not include the parent company of that entity if the company is not involved in direct sales regulated by this article.

(6) “Sale for personal use” means the sale in a single transaction to an individual customer for a legitimate medical use of a product containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine in dosages at or below that specified in paragraph (3) of subdivision (g). “Sale for personal use” also includes the sale of those products to employers to be dispensed to employees from first-aid kits or medicine chests.

…

Annotated California Codes
Health and Safety Code
Division 10. Uniform Controlled Substances Act
Chapter 3. Regulation and Control
Article 1. Reporting
§ 11100. Transactions reported; exemptions; punishment; offenses involving minors

<Section as amended by Stats.2011, c. 15 (A.B.109), eff. April 4, 2011, operative no earlier than Oct. 1, 2011, and only upon the creation and funding of a community corrections grant program. See, also, section prior to amendment by Stats.2011, c. 15 (A.B.109), eff. April 4, 2011, operative no earlier than Oct. 1, 2011, and only upon the creation and funding of a community corrections grant program.>

(a) Any manufacturer, wholesaler, retailer, or other person or entity in this state that sells, transfers, or otherwise furnishes any of the following substances to any person or entity in this state or any other state shall submit a report to the Department of Justice of all of those transactions:

…

(16) Ephedrine.

(17) Pseudoephedrine.

…

(g)…

…

(3) Notwithstanding any other law, it is unlawful for any retail distributor to (i) sell in a single transaction more than three packages of a product that he or she knows to contain ephedrine, pseudoephedrine, norpseudoephedrine, or

phenylpropanolamine, or (ii) knowingly sell more than nine grams of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine, other than pediatric liquids as defined. Except as otherwise provided in this section, the three package per transaction limitation or nine gram per transaction limitation imposed by this paragraph shall apply to any product that is lawfully sold, transferred, or furnished over the counter without a prescription pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.), or regulations adopted thereunder, unless exempted from the requirements of the federal Controlled Substances Act by the federal Drug Enforcement Administration pursuant to Section 814 of Title 21 of the United States Code.

…

(h) For the purposes of this article, the following terms have the following meanings:

(1) "Drug store" is any entity described in Code 5912 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(2) "General merchandise store" is any entity described in Codes 5311 to 5399, inclusive, and Code 5499 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(3) "Grocery store" is any entity described in Code 5411 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(4) "Pediatric liquid" means a nonencapsulated liquid whose unit measure according to product labeling is stated in milligrams, ounces, or other similar measure. In no instance shall the dosage units exceed 15 milligrams of phenylpropanolamine or pseudoephedrine per five milliliters of liquid product, except for liquid products primarily intended for administration to children under two years of age for which the recommended dosage unit does not exceed two milliliters and the total package content does not exceed one fluid ounce.

(5) "Retail distributor" means a grocery store, general merchandise store, drugstore, or other related entity, the activities of which, as a distributor of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine products, are limited exclusively to the sale of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine products for personal use both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales. "Retail distributor" includes an entity that makes a direct sale, but does not include the parent company of that entity if the company is not involved in direct sales regulated by this article.

(6) "Sale for personal use" means the sale in a single transaction to an individual customer for a legitimate medical use of a product containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine in dosages at or below that specified in paragraph (3) of subdivision (g). "Sale for personal use" also includes the sale of those products to employers to be dispensed to employees from first-aid kits or medicine chests.

…

Colorado

Colorado Revised Statutes Annotated
Title 18. Criminal Code
Article 18. Uniform Controlled Substances Act of 1992
Part 4. Offenses and Penalties
§ 18-18-412.8. Retail sale of methamphetamine precursor drugs--unlawful acts--penalty

…

(2)(a) A person may not knowingly deliver in or from a store to the same individual during any twenty-four-hour period more than three and six-tenths grams of a methamphetamine precursor drug or a combination of two or more

methamphetamine precursor drugs.

…

(c) It is unlawful for a methamphetamine precursor drug that is offered for retail sale in or from a store to be offered for sale or stored or displayed prior to sale in an area of the store to which the public is allowed access.

(2.5)(a) A person may not deliver in a retail sale in or from a store a methamphetamine precursor drug to a minor under eighteen years of age.

…

(4) For purposes of this section:

(a)(I) Except as otherwise provided in subparagraph (II) of this paragraph (a), "methamphetamine precursor drug" means ephedrine, pseudoephedrine, or phenylpropanolamine or their salts, isomers, or salts of isomers.

(II) "Methamphetamine precursor drug" does not include a substance contained in any package or container that is labeled by the manufacturer as intended for pediatric use.

(b) "Person" means an individual who owns, operates, is employed by, or is an agent of a store.

(c) "Store" means any establishment primarily engaged in the sale of goods at retail.

…

Delaware

Delaware Code Annotated
Title 16. Health and Safety
Part IV. Food and Drugs
Chapter 47. Uniform Controlled Substances Act
Subchapter III. Regulation of Manufacture, Distribution and Dispensing of Controlled Substances
§ 4740. Sale of pseudoephedrine or ephedrine

(a) If any material, compound, mixture, or preparation containing any detectable quantity of pseudoephedrine or ephedrine, its salts or optical isomers, or salts of optical isomers is dispensed, offered for sale, sold or distributed:

(1) It shall be dispensed, offered for sale, sold, or distributed only from behind a checkout counter, pharmacy counter, or in a locked storage container where the public is not permitted.

(2) A licensed pharmacist, sales clerk, or pharmacy technician shall require that any person purchasing, receiving, or otherwise acquiring any such substance shall be age 18 or older, produce a photo identification showing the date of birth of the person, and sign a written log or receipt showing the date of the transaction, name of the person, and the amount of such substance. The written log or receipt shall be retained for at least 12 months.

(3) No person, other than a pharmacy or retail establishment, shall purchase, receive, or otherwise acquire more than 9 grams of any such substance within any 30-day period.

(b) A violation of this section is a class A misdemeanor.

Florida

Florida Statutes Annotated

Title XLVI. Crimes (Chapters 775-899)
Chapter 893. Drug Abuse Prevention and Control
893.1495. Retail sale of ephedrine and related compounds

(1) For purposes of this section, the term "ephedrine or related compounds" means ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers.

…

(3) A person may not knowingly display and offer for retail sale any nonprescription compound, mixture, or preparation containing ephedrine or related compounds other than behind a checkout counter where the public is not permitted or other such location that is not otherwise accessible to the general public.

(4) A person who is the owner or primary operator of a retail outlet where any nonprescription compound, mixture, or preparation containing ephedrine or related compounds is available for sale may not knowingly allow an employee to engage in the retail sale of such compound, mixture, or preparation unless the employee has completed an employee training program that shall include, at a minimum, basic instruction on state and federal regulations relating to the sale and distribution of such compounds, mixtures, or preparations.

…

(10) This section does not apply to:

(a) Licensed manufacturers manufacturing and lawfully distributing products in the channels of commerce.

(b) Wholesalers lawfully distributing products in the channels of commerce.

(c) Health care facilities licensed under chapter 395.

(d) Licensed long-term care facilities.

(e) Government-operated health departments.

(f) Physicians' offices.

(g) Publicly operated prisons, jails, or juvenile correctional facilities or private adult or juvenile correctional facilities under contract with the state.

(h) Public or private educational institutions maintaining health care programs.

(i) Government-operated or industry-operated medical facilities serving employees of the government or industry operating them.

(11) Any individual who violates subsection (2), subsection (3), or subsection (4) commits:

(a) For a first offense, a misdemeanor of the second degree, punishable as provided in s. 775.083.

(b) For a second offense, a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) For a third or subsequent offense, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

…

Florida Administrative Code
Title 11. Department of Law Enforcement
Subtitle 11D. Division of Local Law Enforcement Assistance
Chapter 11D-2. Division of Local Law Enforcement Assistance
11D-2.005. Methamphetamine Precursor Electronic Monitoring System.

(1) A pharmacy or retailer conducting business within the state of Florida who engages in the sale of any nonprescription compound, mixture, or preparation containing ephedrine or related compounds shall be required to participate in the Methamphetamine Precursor Electronic Monitoring System.

(2) Definitions:

…

(d) "Retailer" refers to any person, entity, or business including a pharmacy, within the state of Florida, who engages in the sale of nonprescription compounds, mixtures, or preparations containing ephedrine or related compounds, ephedrine or related products that does not meet the criteria in Sections 893.1495(5)(b) or 893.1495(10), F.S.

…

Georgia

Code of Georgia Annotated
Title 16. Crimes and Offenses
Chapter 13. Controlled Substances
Article 2. Regulation of Controlled Substances
Part 1. General Provisions
§ 16-13-29. Schedule V

The controlled substances listed in this Code section are included in Schedule V:

…

(5) Pseudoephedrine as an exempt over-the-counter (OTC) Schedule V controlled substance distributed in the same manner as set forth in Code Section 16-13-29.2; provided, however, that such exemption shall take effect immediately and shall not require rulemaking by the State Board of Pharmacy; provided, further, that wholesale drug distributors located within this state and licensed by the State Board of Pharmacy and which are registered and regulated by the U.S. Drug Enforcement Administration (DEA) shall not be subject to any board requirements for controlled substances for the storage, reporting, recordkeeping, or physical security of drug products containing pseudoephedrine which are more stringent than those included in DEA regulations.

Code of Georgia Annotated
Title 16. Crimes and Offenses
Chapter 13. Controlled Substances
Article 2. Regulation of Controlled Substances
Part 1. General Provisions
§ 16-13-29.2. Exempt Over-The-Counter (OTC) Schedule V controlled substances

The Georgia State Board of Pharmacy shall have the authority to exempt and control the sale of Schedule V controlled substances by rule which shall allow the sale of such substances without the need for issuance of a prescription from a medical practitioner and shall require such substances to be sold only in a pharmacy when such substances are sold without a prescription. Such substances shall be known as Exempt Over-the-Counter (OTC).

Schedule V Controlled Substances.
Code of Georgia Annotated
Title 16. Crimes and Offenses
Chapter 13. Controlled Substances
Article 2. Regulation of Controlled Substances
Part 1. General Provisions

§ 16-13-30.3. Ephedrine, pseudoephedrine, and phenylpropanolamine; unlawful possession; violations

(a) As used in this Code section, the term:

(1) "Ephedrine," "pseudoephedrine," or "phenylpropanolamine" means any drug product containing ephedrine, pseudoephedrine, or phenylpropanolamine, or any of their salts, isomers, or salts of isomers, alone or in a mixture.

(2) "Personal use" means the sale in a single transaction to an individual customer for a legitimate medical use of a product containing ephedrine, pseudoephedrine, or phenylpropanolamine in quantities at or below that specified in subsection (b) of this Code section, and includes the sale of those products to employers to be dispensed to employees from first-aid kits or medicine chests.

(3) "Retail distributor" means a grocery store, general merchandise store, drugstore, convenience store, or other related entity, the activities of which involve the distribution of ephedrine, pseudoephedrine, or phenylpropanolamine products.

(b)(1) It is unlawful for any person, other than a person or entity described in paragraph (28), (29), or (33) of Code Section 26-4-5 or a retail distributor, to knowingly possess any product that contains ephedrine, pseudoephedrine, or phenylpropanolamine in an amount which exceeds 300 pills, tablets, gelcaps, capsules, or other individual units or more than 9 grams of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, or a combination of any of these substances, whichever is smaller.

…

(6)(A) Except as otherwise provided herein, it shall be unlawful for any person knowingly to violate any prohibition contained in paragraph (1), (2), or (3) of this subsection.

(B) Any person convicted of a violation of paragraph (1) or (2) of this subsection shall be guilty of a misdemeanor which, upon the first conviction, shall be punished by a fine of not more than $500.00 and, upon the second or subsequent conviction, shall be punished by not more than six months' imprisonment or a fine of not more than $1,000.00, or both.

…

(D) It shall be a defense to a prosecution of a retail business or owner or operator thereof for violation of paragraph (1) or (2) of this subsection that, at the time of the alleged violation, all of the employees of the retail business had completed training under Georgia Meth Watch, the retail business was in compliance with Georgia Meth Watch, and the defendant did not knowingly, willfully, or intentionally violate paragraph (1) or (2) of this subsection. For purposes of this subsection only, the term "Georgia Meth Watch" shall mean that program entitled "Georgia Meth Watch" or similar program which has been promulgated, approved, and distributed by the Georgia Council on Substance Abuse.

…

(c) This Code section shall not apply to:

(1) Pediatric products primarily intended for administration to children under 12 years of age, according to label

instructions, either:

(A) In solid dosage form whose recommended dosage, according to label instructions, does not exceed 15 milligrams of ephedrine, pseudoephedrine, or phenylpropanolamine per individual dosage unit; or

(B) In liquid form whose recommended dosage, according to label instructions, does not exceed 15 milligrams of ephedrine, pseudoephedrine, or phenylpropanolamine per five milliliters of liquid product;

(2) Pediatric liquid products primarily intended for administration to children under two years of age for which the recommended dosage does not exceed two milliliters and the total package content does not exceed one fluid ounce; or

(3) Products that the Georgia State Board of Pharmacy, upon application of a manufacturer, exempts by rule from this Code section because the product has been formulated in such a way as to prevent effectively the conversion of the active ingredient into methamphetamine or its salts or precursors.

…

Code of Georgia Annotated
Title 26. Food, Drugs, and Cosmetics
Chapter 4. Pharmacists and Pharmacies
Article 1. General Provisions
§ 26-4-5. Definitions

As used in this chapter, the term:

…

(28) "Pharmacist" means an individual currently licensed by this state to engage in the practice of pharmacy. This recognizes a pharmacist as a learned professional who is authorized to provide patient services and pharmacy care.

(29) "Pharmacist in charge" means a pharmacist currently licensed in this state who accepts responsibility for the operation of a pharmacy in conformance with all laws and rules pertinent to the practice of pharmacy and the distribution of drugs and who is personally in full and actual charge of such pharmacy and personnel.

…

(33) "Practitioner" or "practitioner of the healing arts" means a physician, dentist, podiatrist, or veterinarian and shall include any other person licensed under the laws of this state to use, mix, prepare, dispense, prescribe, and administer drugs in connection with medical treatment to the extent provided by the laws of this state.

…

Georgia Administrative Code
Title 480. Georgia State Board of Pharmacy
Chapter 480-19. Exempt Over-The-Counter (Otc) Schedule V Controlled Substances
480-19-.03. Over-the-counter (OTC) Sales of Exempt Schedule V Controlled Substance Drug Products containing Pseudoephedrine

(a) No person shall obtain or attempt to obtain, sell, dispense or otherwise distribute any exempt Schedule V controlled substance drug product containing pseudoephedrine as listed under O.C.G.A. 16-13-29(5), except as herein provided, and as in compliance with all other applicable state or federal laws, rules and regulations. All terms used in this section shall have the same meaning as in O.C.G.A. T.16, Ch. 13 and T. 26, Ch. 4.

1) All exempt Schedule V controlled substance pseudoephedrine containing drug products must be stored in a pharmacy's prescription department.

2) All pharmacy personnel who engage in the sale or distribution of exempt Schedule V controlled substance containing drug products must complete the DEA's self-certification training as required by the Combat Methamphetamine Epidemic Act of 2005, 21 U.S.C. 830.

(b) A registered pharmacist or pharmacy intern or pharmacy extern acting under the direct supervision of a registered pharmacist may sell, dispense or otherwise dispose of without prescription not more than 3.6 grams every 24 hours, or a maximum of 9 grams every 30 days, to each customer of a pseudoephedrine containing drug product, but only:

…

Georgia Administrative Code
Title 480. Georgia State Board of Pharmacy
Chapter 480-19. Exempt Over-The-Counter (Otc) Schedule V Controlled Substances
480-19-.05. Exceptions to Exempt Schedule V Controlled Substance Drug Products Containing Pseudoephedrine Sales

(a) Any drug product containing pseudoephedrine which comes in a container packaged by the its manufacturer with and its label contains a Federal Caution or Rx Only indication, this product is not an exempt narcotic under this rule and cannot be sold as an Exempt OTC Schedule V drug product and can only be dispensed by a pharmacist, or pharmacy intern or pharmacy extern acting under the direct supervision of a registered pharmacist upon receipt of a prescription issued by a licensed practitioner.

(1) Such prescriptions should be filed and maintained in the manner set forth for Schedule III, IV or V controlled substance prescriptions.

(b) Any licensed practitioner who is authorized to dispense drugs by O.C.G.A. 26-4-130 may dispense drug products containing pseudoephedrine in accordance to state laws and board of pharmacy rule 480-28.

(1) Such prescriptions dispensed according to board of pharmacy rule 480-28 should be filed and maintained in the manner set forth for Schedule III, IV or V controlled substance prescriptions.

Hawaii

Hawai'i Revised Statutes Annotated
Division 1. Government
Title 19. Health
Chapter 329. Uniform Controlled Substances Act
Part VI. Regulated Chemicals for the Manufacture of Controlled Substances
§ 329-61. Substances subject to reporting

(a) List 1 chemicals. Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any of the following substances to any person in this State or for use in this State shall submit a report to the department of all those transactions:

…

(4) Ephedrine, its salts, optical isomers, and salts of optical isomers;

(5) Pseudoephedrine**,** its salts, optical isomers, and salts of optical isomers;

…

Hawai'i Revised Statutes Annotated
Division 1. Government
Title 19. Health
Chapter 329. Uniform Controlled Substances Act
Part VI. Regulated Chemicals for the Manufacture of Controlled Substances
§ 329-67. Permit for conduct of business; applications; forms; fees; renewal; violations

(a) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any substance specified in section 329-61 for use by a person in this State or who receives from a source outside of the State any substance specified in section 329-61 shall obtain a permit for the conduct of that business from the department of public safety.

(b) Applications for permits shall be filed in writing and signed by the applicant, and shall set forth the name of the applicant, the business in which the applicant is engaged, the business address of the applicant, and a full description of any substance sold, transferred, or otherwise furnished, or received.

(c) The department of public safety may grant permits which shall be effective for not more than one year from the date of issuance. Applications and permits shall be uniform through the State, on forms prescribed by the department of public safety.

(d) Each applicant shall pay at the time of filing an application for a permit a fee determined by the department of public safety in accordance with the department's rules.

(e) A permit granted pursuant to this part may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee in accordance with the department's rules.

(f)(1) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes, or receives any substance specified in section 329-61 without a permit shall be guilty of a misdemeanor; and

(2) Any manufacturer, wholesaler, retailer, or other person who has previously been convicted of violating section 329-67(a), upon a subsequent conviction thereof shall be guilty of a class C felony.

Hawai‘i Revised Statutes Annotated
Division 1. Government
Title 19. Health
Chapter 329. Uniform Controlled Substances Act
Part VI. Regulated Chemicals for the Manufacture of Controlled Substances
[§ 329-72]. Rules

The department of public safety may adopt rules and assess reasonable fees relating to the registration and control of the sale, distribution, or possession of regulated chemicals under part VI of chapter 329.

Hawai‘i Revised Statutes Annotated
Division 1. Government
Title 19. Health
Chapter 329. Uniform Controlled Substances Act
Part VI. Regulated Chemicals for the Manufacture of Controlled Substances
§ 329-75. Sales of products, mixtures, or preparations containing pseudoephedrine; reporting requirement for wholesalers

(a) Notwithstanding any other law to the contrary, a pharmacy or retailer may sell or distribute to a person without a prescription products containing not more than 3.6 grams per day or not more than nine grams per thirty-day period

of pseudoephedrine, without regard to the number of transactions; provided that the pharmacy or retailer shall comply with the following conditions:

…

Hawaii Administrative Code
Title 23. Department of Public Safety
Subtitle 3. Law Enforcement
Chapter 201. Regulated Chemicals for the Manufacture of Controlled Substances
§ 23-201-2. Definitions.

…

"Ephedrine" the term shall include any synthetic compound, salt, derivative, mixture, or preparation extracted from the plant (genus) ephedra that contains the substance Ephedrine.

"Permit" means the regulated chemical certificate of registration issued by the department.

"Permittee" means any person who has a permit to distribute, sell, transfer, or furnish for use, by any person in this state, who brings in or receives from a source outside the State any substance specified in section 329-61, Hawaii Revised Statutes.

"Person" means an individual, corporation, government, or governmental subdivision or agency, business trust, estate trust, partnership, association, or any other legal entity.

…

"Safe harbor packaging" means a product that is, if not a liquid, sold in packages of not more than three grams of the base ingredient and is packaged in blister packs of not more than two tablets per blister; or, if a liquid, sold in package sizes of not more than three grams of the base ingredient.

"Substance" means any precursor specified in section 329-61, Hawaii Revised Statutes.

Hawaii Administrative Code
Title 23. Department of Public Safety
Subtitle 3. Law Enforcement
Chapter 201. Regulated Chemicals for the Manufacture of Controlled Substances
§ 23-201-3. Permit requirements.

Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes for use by a person in this State or who brings in or receives from a source outside of the State any substance specified in section 329-61, Hawaii Revised Statutes, shall obtain annually a permit for the conduct of that business issued by the department. The application for permit shall be obtained from the department.

Hawaii Administrative Code
Title 23. Department of Public Safety
Subtitle 3. Law Enforcement
Chapter 201. Regulated Chemicals for the Manufacture of Controlled Substances
§ 23-201-4. Annual fees for initial and renewal permits.

(a) For each initial and renewal permit, to manufacture for distribution the applicant shall pay a fee of $100.

(b) For each initial and renewal permit, to conduct business as a wholesale distributor, importer, or exporter, the applicant shall pay a fee of $75.

(c) For each initial and renewal permit, to conduct business as a retail distributor the applicant shall pay a fee of $75.

(d) For each duplicate permit, the permittee shall submit a written request and shall pay a fee of $10.

Hawaii Administrative Code
Title 23. Department of Public Safety
Subtitle 3. Law Enforcement
Chapter 201. Regulated Chemicals for the Manufacture of Controlled Substances
§ 23-201-6. Persons exempted from permit requirement.

…

(c) All persons specified in section 329-64, Hawaii Revised Statutes, are exempt from obtaining a permit under the following circumstances:

(1) Any retail distributor who sells, transfers, or furnishes any over-the-counter-drug product in "safe harbor packaging" in a single transaction to an individual for legitimate medical use that contains pseudoephedrine, norpseudoephedrine, phenylpropanolamine, or an ephedrine combination product; and

(2) Any retail distributor of below threshold quantities of products that are not over-the-counter drug products in "Safe harbor packaging" to an individual for legitimate medical use. The threshold for a retail distributor of a product that is not an over-the-counter drug product in "Safe harbor packaging" is twenty-four grams in a single transaction;

(d) The administrator, upon finding that the continuation of an exemption would not be in the public interest, may suspend or revoke a person's exemption pursuant to procedures set forth in section 23-201-8.

Hawaii Administrative Code
Title 23. Department of Public Safety
Subtitle 3. Law Enforcement
Chapter 201. Regulated Chemicals for the Manufacture of Controlled Substances
§ 23-201-7. Time and method of registration.

(a) Registration and re-registration fees shall be paid at the time when the application for registration or re-registration is submitted for filing. Payment shall be made in the form of a personal, certified or cashier's check or money order made payable to the narcotics enforcement division, department of public safety. Payment made in the form of stamps, foreign currency, or third party endorsed checks will not be accepted. No prorated or full refund will be issued once the certificate is processed. In the event that the application is not accepted for filing or is denied, the payment shall be refunded to the applicant.

(b) Any person who is required to obtain a permit and who has not obtained a permit from the department may apply for a permit at any time. No person required to obtain a permit shall engage in any transactions for which the permit is required, until the application for permit is granted and a permit is issued by the department to such person. All regulated chemical permit applications shall be processed by the department within sixty days after receipt of the completed application, including all requested documentation. In the absence of a national disaster, state emergency, or union strike which would prevent the department from reviewing the permit application, any application pending more than sixty days after receipt of the completed application shall be deemed granted.

(c) Each permit shall expire annually as noted on the permit. Any permittee may apply for renewal not earlier than sixty days prior to the expiration date of their permit. An additional fee of $25 shall be paid for renewal after the expiration date on the permit.

(d) Failure to obtain a permit from the department will prohibit the applicant from engaging in any activity utilizing

regulated chemicals designated in section 329-61, Hawaii Revised Statutes.

(e) The administrator may require an applicant to submit such documents or written statements of fact relevant to the application as he deems necessary to determine whether the application should be granted. The failure of the applicant to provide such documents or statements within thirty days after being requested to do so shall be deemed to be a waiver by the applicant of an opportunity to present such documents or facts for consideration by the administrator in granting or denying the permit application.

(f) The failure to renew the permit on a timely basis or to pay the applicable fees or payment with a check that is dishonored upon first deposit shall cause the permit to be automatically forfeited.

Hawaii Administrative Code
Title 23. Department of Public Safety
Subtitle 3. Law Enforcement
Chapter 201. Regulated Chemicals for the Manufacture of Controlled Substances
§ 23-201-8. Modification, transfer, and termination of permits.

(a) Any person may apply to modify his permit registration to authorize the handling of additional regulated chemicals by filing a new permit application. In the event of a change of a name or address, the permittee shall submit a letter to the department of public safety, narcotics enforcement division. The letter shall contain the new name or address and the effective date. Such notification shall be within thirty days of such fact. No fee shall be required to be paid for the modification.

(b) Failure to report a change of address will invalidate the permit and require re-registration and the imposition of the $25 late fee.

(c) No permit issued to a person shall be assigned or otherwise transferred to any other person.

(d) A permit issued to a person will terminate if and when the person dies, ceases legal existence, or discontinues business. The person or the person's representative, shall within thirty days, return the permit to the department.

Idaho

Idaho Code Annotated
Title 37. Food, Drugs, and Oil
Chapter 33. Retail Sales of Pseudoephedrine Products
§ 37-3301. Definitions

As used in this chapter:

(1) “Pseudoephedrine product” means any compound, mixture or preparation containing any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers.

(2) “Retailer” means any person, other than a wholesaler, who sells or offers for sale or distributes at retail pseudoephedrine products, irrespective of the quantity or amount or the amount of sales of such pseudoephedrine products.

Idaho Code Annotated
Title 37. Food, Drugs, and Oil
Chapter 33. Retail Sales of Pseudoephedrine Products
§ 37-3302. Sales of pseudoephedrine products

A retailer shall ensure that:

(1) Pseudoephedrine products offered for sale are located either in an area where the public is not permitted or inside a locked display case; and

(2) All distributions of pseudoephedrine products are conducted by an employee of the retailer. No pseudoephedrine products shall be dispensed by a self-service system of any kind.

Illinois

Smith-Hurd Illinois Compiled Statutes Annotated
Chapter 720. Criminal Offenses
Offenses Against the Public
Act 648. Methamphetamine Precursor Control Act
648/10. Definitions

§ 10. Definitions. In this Act:

…

"Agent" has the meaning provided in Section 102 of the Illinois Controlled Substances Act.

…

"Convenience package" means any package that contains 360 milligrams or less of ephedrine or pseudoephedrine, their salts or optical isomers, or salts of optical isomers in liquid or liquid-filled capsule form.

"Covered pharmacy" means any pharmacy that distributes any amount of targeted methamphetamine precursor that is physically located in Illinois.

…

"Methamphetamine precursor" has the meaning provided in Section 10 of the Methamphetamine Control and Community Protection Act.

…

"Pharmacist" has the meaning provided in Section 102 of the Illinois Controlled Substances Act.

"Pharmacy" has the meaning provided in Section 102 of the Illinois Controlled Substances Act.

"Practitioner" has the meaning provided in Section 102 of the Illinois Controlled Substances Act.

"Prescriber" has the meaning provided in Section 102 of the Illinois Controlled Substances Act.

"Prescription" has the meaning provided in Section 102 of the Illinois Controlled Substances Act.

…

"Retail distributor" means a grocery store, general merchandise store, drug store, other merchandise store, or other entity or person whose activities as a distributor relating to drug products containing targeted methamphetamine precursor are limited exclusively or almost exclusively to sales for personal use by an ultimate user, both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales.

"Sales employee" means any employee or agent, other than a pharmacist or pharmacy technician who at any time (a) operates a cash register at which convenience packages may be sold, (b) stocks shelves containing convenience

packages, or (c) trains or supervises any other employee or agent who engages in any of the preceding activities.

…

"Targeted methamphetamine precursor" means any compound, mixture, or preparation that contains any detectable quantity of ephedrine or pseudoephedrine, their salts or optical isomers, or salts of optical isomers.

"Targeted package" means a package, including a convenience package, containing any amount of targeted methamphetamine precursor.

…

Smith-Hurd Illinois Compiled Statutes Annotated
Chapter 720. Criminal Offenses
Offenses Against the Public
Act 648. Methamphetamine Precursor Control Act
648/15. Basic provisions

§ 15. Basic provisions.

(a) No targeted methamphetamine precursor shall be purchased, received, or otherwise acquired in any manner other than that described in Section 20 of this Act.

…

(e) No targeted methamphetamine precursor shall be administered, dispensed, or distributed except by:

(1) a pharmacist pursuant to the valid order of a prescriber;

(2) any other practitioner authorized to do so by the Illinois Controlled Substances Act;

(3) a drug abuse treatment program, pursuant to subsection (d) of Section 313 of the Illinois Controlled Substances Act;

(4) a pharmacy pursuant to Section 25 of this Act;

(5) a retail distributor pursuant to Sections 30 and 35 of this Act; or

(6) a distributor authorized by the Drug Enforcement Administration to distribute bulk quantities of a list I chemical under the federal Controlled Substances Act and corresponding regulations, or the employee or agent of such a distributor acting in the normal course of business.

(f) Notwithstanding any provision of this Act to the contrary, it is lawful for persons to provide small quantities of targeted methamphetamine precursors to immediate family or household members for legitimate medical purposes, and it is lawful for persons to receive small quantities of targeted methamphetamine precursors from immediate family or household members for legitimate medical purposes.

Smith-Hurd Illinois Compiled Statutes Annotated
Chapter 720. Criminal Offenses
Offenses Against the Public
Act 648. Methamphetamine Precursor Control Act
648/25. Pharmacies

§ 25. Pharmacies.

(a) No targeted methamphetamine precursor may be knowingly distributed through a pharmacy, including a pharmacy located within, owned by, operated by, or associated with a retail distributor unless all terms of this Section are satisfied.

…

(c) The targeted methamphetamine precursor shall be stored behind the pharmacy counter and distributed by a pharmacist or pharmacy technician licensed under the Pharmacy Practice Act, or by an agent of the pharmacist or pharmacy technician.

…

Smith-Hurd Illinois Compiled Statutes Annotated
Chapter 720. Criminal Offenses
Offenses Against the Public
Act 648. Methamphetamine Precursor Control Act
648/30. Retail distributors; general requirements

§ 30. Retail distributors; general requirements.

(a) No retail distributor shall distribute any convenience package except in accordance with this Section and Section 35 of this Act.

(b) The convenience packages must be displayed behind store counters or in locked cases, so that customers are not able to reach the product without the assistance of a store employee or agent.

(c) The retailer distributor shall ensure that any person purchasing, receiving, or otherwise acquiring the targeted methamphetamine precursor complies with subsection (a) of Section 20 of this Act.

…

Smith-Hurd Illinois Compiled Statutes Annotated
Chapter 720. Criminal Offenses
Offenses Against the Public
Act 648. Methamphetamine Precursor Control Act
648/35. Retail distributors; training requirements

§ 35. Retail distributors; training requirements.

(a) Every retail distributor of any targeted methamphetamine precursor shall train each sales employee on the topics listed on the certification form described in subsection (b) of this Section. This training may be conducted by a live trainer or by means of a computer-based training program. This training shall be completed within 30 days of the effective date of this Act or within 30 days of the date that each sales employee begins working for the retail distributor, whichever of these 2 dates comes later.

(b) Immediately after training each sales employee as required in subsection (a) of this Section, every retail distributor of any targeted methamphetamine precursor shall have each sales employee read, sign, and date a certification containing the following language:

(1) My name is (insert name of employee) and I am an employee of (insert name of business) at (insert street address).

(2) I understand that in Illinois there are laws governing the sale of certain over-the-counter medications that contain a chemical called ephedrine or a second chemical called pseudoephedrine. Medications that are subject to these laws are called "targeted methamphetamine precursors".

(3) I understand that "targeted methamphetamine precursors" can be used to manufacture the illegal and dangerous drug methamphetamine and that methamphetamine is causing great harm to individuals, families, communities, the economy, and the environment throughout Illinois.

(4) I understand that under Illinois law, unless they are at a pharmacy counter, customers can only purchase small "convenience packages" of " targeted methamphetamine precursors".

(5) I understand that under Illinois law, customers can only purchase these "convenience packages" if they are 18 years of age or older, show identification, and sign a log according to procedures that have been described to me.

(6) I understand that under Illinois law, I cannot sell more than one "convenience package" to a single customer in one 24-hour period.

(7) I understand that under Illinois law, I cannot sell "targeted methamphetamine precursors" to a person if I know that the person is going to use them to make methamphetamine.

(8) I understand that there are a number of ingredients that are used to make the illegal drug methamphetamine, including "targeted methamphetamine precursors" sold in "convenience packages". My employer has shown me a list of these various ingredients, and I have reviewed the list.

(9) I understand that there are certain procedures that I should follow if I suspect that a store customer is purchasing "targeted methamphetamine precursors" or other products for the purpose of manufacturing methamphetamine. These procedures have been described to me, and I understand them.

(c) A certification form of the type described in subsection (b) of this Section may be signed with a handwritten signature or an electronic signature that includes a unique identifier for each employee. The certification shall be retained by the retail distributor for each sales employee for the duration of his or her employment and for at least 30 days following the end of his or her employment. Any such form shall be made available for inspection and copying by any law enforcement officer upon request of that officer. These records may be kept in electronic format if they include all the information specified in this Section in a manner that is readily retrievable and reproducible in hard-copy format.

(d) The Office of the Illinois Attorney General shall make available to retail distributors the list of methamphetamine ingredients referred to in subsection (b) of this Section.

(e) The training requirements set forth in this Section apply to the distribution of convenience packages away from pharmacy counters as set forth in Section 30 of this Act but do not apply to the distribution of targeted methamphetamine precursors through a pharmacy as set forth in Section 25 of this Act.

Smith-Hurd Illinois Compiled Statutes Annotated
Chapter 720. Criminal Offenses
Offenses Against the Public
Act 648. Methamphetamine Precursor Control Act
648/40. Penalties

§ 40. Penalties.

…

(b) Violations of Section 15, 20, 25, 30, or 35 of this Act, other than violations of subsection (b) of Section 20 of this

Act.

(1) Any pharmacy or retail distributor that violates Section 15, 20, 25, 30, or 35 of this Act, other than subsection (b) of Section 20 of this Act, is guilty of a petty offense and subject to a fine of $500 for a first offense; and $1,000 for a second offense occurring at the same retail location as and within 3 years of the prior offense. A pharmacy or retail distributor that violates this Act is guilty of a business offense and subject to a fine of $5,000 for a third or subsequent offense occurring at the same retail location as and within 3 years of the prior offenses.

(2) An employee or agent of a pharmacy or retail distributor who violates Section 15, 20, 25, 30, or 35 of this Act, other than subsection (b) of Section 20 of this Act, is guilty of a Class A misdemeanor for a first offense, a Class 4 felony for a second offense, and a Class 1 felony for a third or subsequent offense.

(3) Any other person who violates Section 15, 20, 25, 30, or 35 of this Act, other than subsection (b) of Section 20 of this Act, is guilty of a Class B misdemeanor for a first offense, a Class A misdemeanor for a second offense, and a Class 4 felony for a third or subsequent offense.

…

Indiana

Annotated Indiana Code
Title 35. Criminal Law and Procedure
Article 48. Controlled Substances
Chapter 4. Offenses Relating to Controlled Substances \
35-48-4-14.7 Restrictions on sale and purchase of ephedrine or pseudoephedrine; reporting of suspicious activities or theft

Sec. 14.7. (a) This section does not apply to the following:

(1) Ephedrine or pseudoephedrine dispensed pursuant to a prescription.

(2) The sale of a drug containing ephedrine or pseudoephedrine to a licensed health care provider, pharmacist, retail distributor, wholesaler, manufacturer, or an agent of any of these persons if the sale occurs in the regular course of lawful business activities. However, a retail distributor, wholesaler, or manufacturer is required to report a suspicious order to the state police department in accordance with subsection (f).

(3) The sale of a drug containing ephedrine or pseudoephedrine by a person who does not sell exclusively to walk-in customers for the personal use of the walk-in customers. However, if the person described in this subdivision is a retail distributor, wholesaler, or manufacturer, the person is required to report a suspicious order to the state police department in accordance with subsection (f).

…

(2) "Convenience package" means a package that contains a drug having as an active ingredient not more than sixty (60) milligrams of ephedrine or pseudoephedrine, or both.

(3) "Ephedrine" means pure or adulterated ephedrine.

(4) "Pseudoephedrine" means pure or adulterated pseudoephedrine.

(5) "Retailer" means a grocery store, general merchandise store, drug store, or other similar establishment where ephedrine or pseudoephedrine products are available for sale.

…

(c) This subsection does not apply to a convenience package. A retailer may sell a drug that contains the active ingredient of ephedrine, pseudoephedrine, or both only if the retailer complies with the following conditions:

…

(e) This subsection only applies to convenience packages. A retailer may not sell drugs containing more than sixty (60) milligrams of ephedrine or pseudoephedrine, or both in any one (1) transaction if the drugs are sold in convenience packages. A retailer who sells convenience packages must secure the convenience packages behind the counter in an area inaccessible to a customer or in a locked display case that makes the drug unavailable to a customer without the assistance of an employee.

…

(i) A person who knowingly or intentionally violates this section commits a Class C misdemeanor. However, the offense is a Class A misdemeanor if the person has a prior unrelated conviction under this section.

…

Iowa

Iowa Code Annotated
Title IV. Public Health [Chs. 123-158]
Subtitle 1. Alcoholic Beverages and Controlled Substances [Chs. 123-134]
Chapter 124. Controlled Substances
Division II. Standards and Schedules
124.212. Schedule V--substances included

1. Schedule V shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

…

4. Precursors to amphetamine and methamphetamine. Unless specifically excepted in paragraph "d" or "e" or listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following precursors to amphetamine or methamphetamine, including their salts, optical isomers, and salts of their optical isomers:

a. Ephedrine.

…

c. Pseudoephedrine. A person shall present a government-issued photo identification card when purchasing a pseudoephedrine product from a pharmacy. A person shall not purchase a quantity of pseudoephedrine in violation of section 124.213 from a pharmacy, unless the person has a prescription for a pseudoephedrine product in excess of that quantity. A pseudoephedrine product not excepted from this schedule shall be sold by a pharmacy as provided in section 124.212A.

d. Any product that contains three hundred sixty milligrams or less of pseudoephedrine, its salts, optical isomers, and salts of its optical isomers, which is in liquid, liquid capsule, or liquid-filled gel capsule form, is excepted from this schedule and may be warehoused, distributed, and sold over the counter pursuant to section 126.23A.

…

Iowa Code Annotated
Title IV. Public Health [Chs. 123-158]
Subtitle 1. Alcoholic Beverages and Controlled Substances [Chs. 123-134]
Chapter 126. Drugs, Devices, and Cosmetics
126.23A. Pseudoephedrine retail restrictions

1. a. A retailer or an employee of a retailer shall not do any of the following:

(1) Sell more than seven thousand five hundred milligrams of pseudoephedrine to the same person within a thirty-day period.

(2) Knowingly sell more than one package of a product containing pseudoephedrine to a person in a twenty-four-hour period.

(3) Sell a package of a pseudoephedrine product that can be further broken down or subdivided into two or more separate and distinct packages or offer promotions where a pseudoephedrine product is given away for free as part of any purchase transaction.

…

10. As used in this section, "retailer" means a person or business entity engaged in this state in the business of selling products on a retail basis. An "employee of a retailer" means any employee, contract employee, or agent of the retailer.

Iowa Code Annotated
Title IV. Public Health [Chs. 123-158]
Subtitle 1. Alcoholic Beverages and Controlled Substances [Chs. 123-134]
Chapter 126. Drugs, Devices, and Cosmetics
126.23B. Civil penalty

1. A city or a county may enforce section 126.23A, after giving the retailer an opportunity to be heard upon ten days' written notice by restricted certified mail stating the alleged violation and the time and place at which the retailer may appear and be heard.

2. For a violation of section 126.23A by the retailer or an employee of the retailer a civil penalty shall be assessed against the retailer as follows:

a. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars.

b. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars.

c. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of two thousand dollars. The retailer may also be prohibited from selling pseudoephedrine for up to three years from the date of assessment of the civil penalty.

d. For a fourth or subsequent violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of three thousand dollars. On a fourth or subsequent violation, the retailer shall be prohibited from selling pseudoephedrine products for three years from the date of the assessment of the civil penalty.

3. The city or county that takes legal action against a retailer under this section shall report the assessment of a civil penalty to the department of public safety within thirty days of the penalty being assessed.

4. The civil penalty shall be collected by the clerk of the district court and shall be distributed as provided in section

602.8105, subsection 4.

Iowa Administrative Code
Agency 657 Pharmacy Board
Chapter 10 Controlled Substances
657-10.32(124,155A) Dispensing products containing ephedrine, pseudoephedrine, or phenylpropanolamine without a prescription.

A product containing ephedrine, pseudoephedrine, or phenylpropanolamine, which substance is a Schedule V controlled substance and is not listed in another controlled substance schedule, may be dispensed or administered without a prescription by a pharmacist to a purchaser at retail pursuant to the conditions of this rule.

10.32(1)*Who may dispense.* Dispensing shall be by a licensed Iowa pharmacist or by a registered pharmacist-intern under the direct supervision of a pharmacist preceptor. This subrule does not prohibit, after the pharmacist has fulfilled the professional and legal responsibilities set forth in this rule and has authorized the dispensing of the substance, the completion of the actual cash or credit transaction or the delivery of the substance by a nonpharmacist.

…

Iowa Code Annotated
Title XVI. Criminal Law and Procedure [Chs. 687-915]
Subtitle 2. Criminal Procedure [Chs. 748-899]
Chapter 805. Citations in Lieu of Arrest
Traffic and Scheduled Violations
805.8C. Miscellaneous scheduled violations

<[Text subject to final changes by the Iowa Code Editor for Code 2013.]>

…

6. Pseudoephedrine sales violations. For violations of section 126.23A, subsection 1, by an employee of a retailer, or for violations of section 126.23A, subsection 2, paragraph "a", by a purchaser, the scheduled fine is as follows:

a. If the violation is a first offense, the scheduled fine is two hundred dollars.

b. If the violation is a second offense, the scheduled fine is two hundred fifty dollars.

c. If the violation is a third or subsequent offense, the scheduled fine is five hundred dollars.

…

Kansas

Kansas Statutes Annotated
Chapter 65. Public Health
Article 41. Controlled Substances
Uniform Controlled Substances Act
65-4113. Substances included in schedule V

(a) The controlled substances or drugs, by whatever official name, common or usual name, chemical name or brand name designated, listed in this section are included in schedule V.

…

(d) Any compound, mixture or preparation containing any detectable quantity of ephedrine, its salts or optical isomers, or salts of optical isomers.

(e) Any compound, mixture or preparation containing any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers.

...

Kansas Administrative Regulations
Agency 68. Board of Pharmacy
Article 20. Controlled Substances
68-20-22 Dispensing without prescription.

A controlled substance listed in schedule V and a controlled substance listed in schedule II, III or IV which is not a prescription drug as determined under the federal food, drug, and cosmetic act, may be dispensed by a pharmacist without a prescription to a purchaser at retail, provided that:

(a) Such dispensing is made only by a pharmacist as that term is defined by the pharmacy act of the state of Kansas and not by a non-pharmacist employee, even if under the supervision of a pharmacist (although after the pharmacist has fulfilled his or her professional and legal responsibilities set forth in this act, the actual cash, credit transaction, or delivery, may be completed by a non-pharmacist.

…

Kentucky

Baldwin's Kentucky Revised Statutes Annotated
Title XVIII. Public Health
Chapter 218A. Controlled Substances
218A.1446 Requirements for dispensing of certain nonprescription drugs; log or other electronic recordkeeping mechanism; exemption request; exceptions; preemption of local laws

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

…

(7) The requirements of this section shall not apply to any compounds, mixtures, or preparation containing ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers which are in liquid, liquid capsule, or gel capsule form or to any compounds, mixtures, or preparations containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts or optical isomers which are deemed to be not subject to abuse upon joint review and agreement of the Office of Drug Control Policy, the Board of Pharmacy, and the Cabinet for Health and Family Services.

(8) The provisions of this section shall not apply to a:

(a) Licensed manufacturer manufacturing and lawfully distributing a product in the channels of commerce;

(b) Wholesaler lawfully distributing a product in the channels of commerce;

(c) Pharmacy with a valid permit from the Kentucky Board of Pharmacy;

(d) Health care facility licensed pursuant to KRS Chapter 216B;

(e) Licensed long-term care facility;

(f) Government-operated health department;

(g) Physician's office;

(h) Publicly operated prison, jail, or juvenile correctional facility, or a private adult or juvenile correctional facility under contract with the Commonwealth;

(i) Public or private educational institution maintaining a health care program; or

(j) Government-operated or industrial medical facility serving its own employees.

…

Kentucky Administrative Regulations
Title 906. Cabinet for Health and Family Services
Chapter 1. Office of Inspector General
906 KAR 1:160. Monitoring system for products containing ephedrine, pseudoephedrine, or phenylpropanolamine

Section 1.

…

(4) "Dispenser of a precursor to methamphetamine" means a registered pharmacist, pharmacy intern, or pharmacy technician who lawfully dispenses a nonprescription compound, mixture, or preparation containing a detectable quantity of ephedrine, pseudoephedrine, phenylpropanolamine, their salts or optical isomers, or salts of optical isomers.

…

Kentucky Administrative Regulations
Title 906. Cabinet for Health and Family Services
Chapter 1. Office of Inspector General
906 KAR 1:160E. Monitoring system for products containing ephedrine, pseudoephedrine, or phenylpropanolamine

EMERGENCY REGULATION

Section 1.

…

(3) "Dispenser of a precursor to methamphetamine" means a registered pharmacist, pharmacy intern, or pharmacy technician who lawfully sells a nonprescription compound, mixture, or preparation containing a detectable quantity of ephedrine, pseudoephedrine, phenylpropanolamine, their salts or optical isomers, or salts of optical isomers.

…

Louisiana

Louisiana Statutes Annotated
Louisiana Revised Statutes
Title 40. Public Health and Safety
Chapter 4. Food and Drugs
Part X-F. Ephedrine, Pseudoephedrine, and Phenylpropanolamine Monitoring Act
§ 1049.3. Restriction on the sale of nonprescription products containing ephedrine, pseudoephedrine, or phenylpropanolamine or their salts, optical isomers, and salts of optical isomers

A. A nonprescription material, compound, mixture, or preparation containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers shall be dispensed, sold, or distributed only by a licensed pharmacist, certified pharmacy technician, or pharmacy employee permitted by the Louisiana Board of Pharmacy.

…

Louisiana Statutes Annotated
Louisiana Revised Statutes
Title 40. Public Health and Safety
Chapter 4. Food and Drugs
Part X-F. Ephedrine, Pseudoephedrine, and Phenylpropanolamine Monitoring Act
§ 1049.9. Licensed practitioner with prescriptive authority exempted

A health care practitioner with prescriptive authority who is licensed in the state of Louisiana shall be exempt from the requirements of the provisions of this Part in dispensing any product containing ephedrine, pseudoephedrine, or phenylpropanolamine to his patient.

Maine

Maine Revised Statutes Annotated
Title 32. Professions and Occupations
Chapter 117. Maine Pharmacy Act
Subchapter 1. Title and Definitions
§ 13702-A. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings

…

33. Targeted methamphetamine precursor. "Targeted methamphetamine precursor" means any product containing any amount of ephedrine, pseudoephedrine or phenylpropanolamine or their salts, isomers or salts of isomers, either alone or in combination with other ingredients:

A. In dry or solid nonliquid form; or

B. In liquid, liquid-filled capsule or glycerin matrix form if designation as a targeted methamphetamine precursor has been completed by rule adopted pursuant to section 13795, subsection 5, paragraph A.

…

Maine Revised Statutes Annotated
Title 32. Professions and Occupations
Chapter 117. Maine Pharmacy Act
Subchapter 9. Miscellaneous Provisions
§ 13795. Photographic proof of identification; discretion to sell or dispense; immunity

…

5. Rulemaking. The Director of the Office of Substance Abuse within the Department of Health and Human Services may adopt rules to implement this subsection. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

A. If the Director of the Maine Drug Enforcement Agency within the Department of Public Safety finds that the ease of availability of liquid, liquid-filled capsule or glycerin matrix forms of products containing ephedrine,pseudoephedrine or phenylpropanolamine or their salts, isomers or salts of isomers, either alone or in combination with other ingredients, referred to in this paragraph as "products," is a threat to the public health, safety and welfare, then the Director of the Maine Drug Enforcement Agency shall notify the Director of the Office of Substance Abuse. The Director of the Office of Substance Abuse shall consult with the joint standing committee of the Legislature having jurisdiction over health and human services matters, providing the reasons for undertaking rulemaking, and may, after consultation, adopt rules designating the products as targeted methamphetamine precursors pursuant to section 13702-A, subsection 33, paragraph B.

…

Maine Revised Statutes Annotated
Title 32. Professions and Occupations
Chapter 117. Maine Pharmacy Act
Subchapter 9. Miscellaneous Provisions
§ 13796. Retail sale of targeted methamphetamine precursors

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

…

B. "Retailer" or "retail store" means a person or business entity engaged in this State in the business of selling products to the general public on a retail basis, including pharmacies.

…

3. Restrictions on the sale of targeted methamphetamine precursors. The following restrictions on location in the retail store, manner of sale and amount of sale apply to sales of targeted methamphetamine precursors.

…

C. Except with regard to single-dose packages of not more than 60 milligrams that are kept within 30 feet and in direct line of sight of a staffed cash register or store counter, the sale of targeted methamphetamine precursors must be completed by:

(1) A licensed pharmacist or licensed pharmacy technician; or

(2) An employee of the retailer who accepts payment for the targeted methamphetamine precursor as long as:

(a) The employee works under the direct supervision of a pharmacist in the pharmacy area of the retail store; and

(b) A licensed pharmacist or licensed pharmacy technician has given individual, express approval for the purchase.

4. Exceptions. The provisions of this section do not apply to a targeted methamphetamine precursor that is obtained by prescription or by sale or transfer in the regular course of lawful business to a veterinarian, physician, pharmacist, retail distributor, wholesaler, manufacturer, warehouse operator or common carrier or an agent of that person or entity.

Michigan

Michigan Compiled Laws Annotated
Chapter 333. Health
Public Health Code
Article 7. Controlled Substances
Part 72. Standards and Schedules
333.7220. Schedule 5; substances included

Sec. 7220. (1) The following controlled substances are included in schedule 5:

…

(c) Except as otherwise provided in this subdivision, ephedrine, a salt of ephedrine, an optical isomer of ephedrine, a salt of an optical isomer of ephedrine, or a compound, mixture, or preparation containing ephedrine, a salt of ephedrine, an optical isomer of ephedrine, or a salt of an optical isomer of ephedrine. However, the following are not included in schedule 5:

(*i*) A product containing ephedrine, a salt of ephedrine, an optical isomer of ephedrine, or a salt of an optical isomer of ephedrine if the drug product may lawfully be sold over the counter without a prescription under federal law, is labeled and marketed in a manner consistent with the pertinent OTC tentative final or final monograph, is manufactured and distributed for legitimate medical use in a manner that reduces or eliminates the likelihood for abuse, and is not marketed, advertised, or labeled for an indication of stimulation, mental alertness, energy, weight loss, appetite control, or muscle enhancement and if the drug product is 1 of the following:

(A) A solid dosage form, including but not limited to a soft gelatin caplet, that combines as active ingredients not less than 400 milligrams of guaifenesin and not more than 25 milligrams of ephedrine per dose, packaged in blister packs with not more than 2 tablets or caplets per blister.

(B) An anorectal preparation containing not more than 5% ephedrine.

(*ii*) A food product or a dietary supplement containing ephedrine, if the food product or dietary supplement meets all of the following criteria:

(A) It contains, per dosage unit or serving, not more than the lesser of 25 milligrams of ephedrine alkaloids or the maximum amount of ephedrine alkaloids provided in applicable regulations adopted by the United States food and drug administration and contains no other controlled substance.

(B) It contains no hydrochloride or sulfate salts of ephedrine alkaloids.

(C) It is packaged with a prominent label securely affixed to each package that states the amount in milligrams of ephedrine in a serving or dosage unit; the amount of the food product or dietary supplement that constitutes a serving or dosage unit; that the maximum recommended dosage of ephedrine for a healthy adult human is the lesser of 100 milligrams in a 24-hour period or the maximum recommended dosage or period of use provided in applicable regulations adopted by the United States food and drug administration; and that improper use of the product may be hazardous to a person's health.

…

Michigan Compiled Laws Annotated
Chapter 333. Health
Public Health Code
Article 15. Occupations
Part 177. Pharmacy Practice and Drug Control

333.17766e. Retail sale of products containing ephedrine or pseudoephedrine; security measures; identification and recordkeeping; penalties; report

Sec. 17766e. (1) Except as otherwise provided under this section, a person who possesses ephedrine or pseudoephedrine for retail sale pursuant to a license issued under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, shall maintain all products that contain any compound, mixture, or preparation containing any detectable quantity of ephedrine or pseudoephedrine, a salt or optical isomer of ephedrine or pseudoephedrine, or a salt of an optical isomer of ephedrine or pseudoephedrine in accordance with 1 of the following:

(a) Behind a counter where the public is not permitted.

(b) Within a locked case so that a customer wanting access to the product must ask a store employee for assistance.

…

(3) This section does not apply to the following:

(a) A pediatric product primarily intended for administration to children under 12 years of age according to label instructions.

(b) A product containing pseudoephedrine that is in a liquid form if pseudoephedrine is not the only active ingredient.

(c) A product that the state board of pharmacy, upon application of a manufacturer or certification by the United States drug enforcement administration as inconvertible, exempts from this section because the product has been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine.

(d) A product that is dispensed pursuant to a prescription.

(4) A person who violates this section is responsible for a state civil infraction as provided under chapter 88 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8801 to 600.8835, and may be ordered to pay a civil fine of not more than $500.00 for each violation.

…

Michigan Compiled Laws Annotated
Chapter 333. Health
Public Health Code
Article 15. Occupations
Part 177. Pharmacy Practice and Drug Control

333.17766f. Retail sale of product containing ephedrine or pseudopod; penalties; affirmative defense; rebuttal testimony; enactment of conflicting laws by cities, villages, counties, etc.

Sec. 17766f. (1) A person who possesses products that contain any compound, mixture, or preparation containing any detectable quantity of ephedrine or pseudoephedrine, a salt or optical isomer of ephedrine or pseudoephedrine, or a salt of an optical isomer of ephedrine or pseudoephedrine for retail sale pursuant to a license issued under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, shall not knowingly do any of the following:

…

(2) This section does not apply to the following:

(a) A pediatric product primarily intended for administration to children under 12 years of age according to label instructions.

(b) A product containing pseudoephedrine that is in a liquid form if pseudoephedrine is not the only active ingredient.

(c) A product that the state board of pharmacy, upon application of a manufacturer or certification by the United States drug enforcement administration as inconvertible, exempts from this section because the product has been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine.

(d) A product that is dispensed pursuant to a prescription.

(3) A person who violates this section is responsible for a state civil infraction as provided under chapter 88 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8801 to 600.8835, and may be ordered to pay a civil fine of not more than $500.00 for each violation.

(4) It is an affirmative defense to a citation issued pursuant to subsection (1)(a) that the defendant had in force at the time of the citation and continues to have in force a written policy for employees to prevent the sale of products that contain any compound, mixture, or preparation containing any detectable quantity of ephedrine or pseudoephedrine, a salt or optical isomer of ephedrine or pseudoephedrine, or a salt of an optical isomer of ephedrine or pseudoephedrine to persons under 18 years of age and that the defendant enforced and continues to enforce the policy. A defendant who proposes to offer evidence of the affirmative defense described in this subsection shall file and serve notice of the defense, in writing, upon the court and the prosecuting attorney. The notice shall be served not less than 14 days before the hearing date.

(5) A prosecuting attorney who proposes to offer testimony to rebut the affirmative defense described in subsection (4) shall file and serve a notice of rebuttal, in writing, upon the court and the defendant. The notice shall be served not less than 7 days before the hearing date and shall contain the name and address of each rebuttal witness.

…

Michigan Administrative Code
Department of Community Health (R 338.3101 through R 338.3199q)
Director's Office
Pharmacy - Controlled Substances
Part 2. Schedules
R 338.3126 Schedule 5; ephedrine; exceptions.

Rule 26. (1) Except as otherwise provided in subrule (2) of this rule, ephedrine, a salt of ephedrine, an optical isomer of ephedrine, a salt of an optical isomer of ephedrine, or a compound, mixture, or preparation containing ephedrine, a salt of ephedrine, an optical isomer of ephedrine, or a salt of an optical isomer of ephedrine is included in schedule 5.

(2) The following are not included in schedule 5:

(a) A product containing ephedrine, a salt of ephedrine, an optical isomer of ephedrine, or a salt of an optical isomer of ephedrine if the drug product may lawfully be sold over the counter without a prescription under federal law, is labeled and marketed in a manner consistent with the pertinent over the counter tentative final or final monograph, is manufactured and distributed for legitimate medical use in a manner that reduces or eliminates the likelihood for abuse, and is not marketed, advertised, or labeled for an indication of stimulation, mental alertness, energy, weight loss, appetite control, or muscle enhancement and if the drug product is 1 of

the following:

(i) A solid dosage form, including but not limited to a soft gelatin caplet, that combines as active ingredients not less than 400 milligrams of guaifenesin and not more than 25 milligrams of ephedrine per dose, packaged in blister packs with not more than 2 tablets or caplets per blister.

(ii) An anorectal preparation containing not more than 5% ephedrine.

(b) A food product or a dietary supplement containing ephedrine, if the food product or dietary supplement meets all of the following criteria:

(i) It contains, per dosage unit or serving, not more than the lesser of 25 milligrams of ephedrine alkaloids or the maximum amount of ephedrine alkaloids provided in applicable regulations adopted by the United States food and drug administration and contains no other controlled substance.

(ii) It does not contain hydrochloride or sulfate salts of ephedrine alkaloids.

(iii) It is packaged with a prominent label securely affixed to each package that states all of the following:

(A) The amount in milligrams of ephedrine in a serving or dosage unit.

(B) The amount of the food product or dietary supplement that constitutes a serving or dosage unit.

(C) That the maximum recommended dosage of ephedrine for a healthy adult human is the lesser of 100 milligrams in a 24-hour period or the maximum recommended dosage or period of use provided in applicable regulations adopted by the United States food and drug administration.

(D) That improper use of the product may be hazardous to a person's health.

Michigan Administrative Code
Department of Community Health (R 338.3101 through R 338.3199q)
Director's Office
Pharmacy - Controlled Substances
Part 6. Dispensing and Administering Prescriptions Prescriptions
R 338.3167 Dispensing schedule 5 substances without prescriptions.

Rule 67. (1) A pharmacist may, without a prescription, dispense a controlled substance listed in schedule5 which is not a prescription medication as determined under the federal food, drug, and cosmetic act, 21 U.S.C. §§301 to 392, if all of the following provisions are met:

(a) The dispensing pharmacist has determined it is to be used for a medical purpose.

…

Minnesota

Minnesota Statutes Annotated
Health (Ch. 144-159)
Chapter 152. Drugs; Controlled Substances
Definitions and Schedules of Controlled Substances
152.02. Schedules of controlled substances; administration of chapter

Subdivision 1. Five schedules. There are established five schedules of controlled substances, to be known as

Schedules I, II, III, IV, and V. Such schedules shall initially consist of the substances listed in this section by whatever official name, common or usual name, chemical name, or trade name designated.

…

Subd. 6. Schedule V; restrictions on methamphetamine precursor drugs. (a) As used in this subdivision, the following terms have the meanings given:

(1) "methamphetamine precursor drug" means any compound, mixture, or preparation intended for human consumption containing ephedrine or pseudoephedrine as its sole active ingredient or as one of its active ingredients; and

(2) "over-the-counter sale" means a retail sale of a drug or product but does not include the sale of a drug or product pursuant to the terms of a valid prescription.

…

(e) A business establishment that offers for sale methamphetamine precursor drugs in an over-the-counter sale shall ensure that all packages of the drugs are displayed behind a checkout counter where the public is not permitted and are offered for sale only by a licensed pharmacist, a registered pharmacy technician, or a pharmacy clerk. The establishment shall ensure that the person making the sale requires the buyer:

…

(h) A person who knowingly violates paragraph (c), (d), (e), (f), or (g) is guilty of a misdemeanor and may be sentenced to imprisonment for not more than 90 days, or to payment of a fine of not more than $1,000, or both.

(i) An owner, operator, supervisor, or manager of a business establishment that offers for sale methamphetamine precursor drugs whose employee or agent is convicted of or charged with violating paragraph (c), (d), (e), (f), or (g) is not subject to the criminal penalties for violating any of those paragraphs if the person:

(1) did not have prior knowledge of, participate in, or direct the employee or agent to commit the violation; and

(2) documents that an employee training program was in place to provide the employee or agent with information on the state and federal laws and regulations regarding methamphetamine precursor drugs.

…

(k) Paragraphs (b) to (j) do not apply to:

(1) pediatric products labeled pursuant to federal regulation primarily intended for administration to children under 12 years of age according to label instructions;

(2) methamphetamine precursor drugs that are certified by the Board of Pharmacy as being manufactured in a manner that prevents the drug from being used to manufacture methamphetamine;

(3) methamphetamine precursor drugs in gel capsule or liquid form; or

(4) compounds, mixtures, or preparations in powder form where pseudoephedrine constitutes less than one percent of its total weight and is not its sole active ingredient.

…

Missouri

Vernon's Annotated Missouri Statutes
Title XII. Public Health and Welfare
Chapter 195. Drug Regulations
Narcotic Drug Act
195.017. Substances, how placed in schedules--list of scheduled substances-- publication of schedules annually--electronic log of transactions to be maintained, when--certain products to be located behind pharmacy counter-- exemption from requirements, when--rulemaking authority

…

10. The controlled substances listed in this subsection are included in Schedule V:

…

(3) Any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine or its salts or optical isomers, or salts of optical isomers or any compound, mixture, or preparation containing any detectable quantity of ephedrine or its salts or optical isomers, or salts of optical isomers;

…

11. If any compound, mixture, or preparation as specified in subdivision (3) of subsection 10 of this section is dispensed, sold, or distributed in a pharmacy without a prescription:

(1) All packages of any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers or ephedrine, its salts or optical isomers, or salts of optical isomers, shall be offered for sale only from behind a pharmacy counter where the public is not permitted, and only by a registered pharmacist or registered pharmacy technician; and

…

17. The scheduling of substances specified in subdivision (3) of subsection 10 of this section and subsections 11, 12, 14, and 15 of this section shall not apply to any compounds, mixtures, or preparations that are in liquid or liquid-filled gel capsule form or to any compound, mixture, or preparation specified in subdivision (3) of subsection 10 of this section which must be dispensed, sold, or distributed in a pharmacy pursuant to a prescription.

18. The manufacturer of a drug product or another interested party may apply with the department of health and senior services for an exemption from this section. The department of health and senior services may grant an exemption by rule from this section if the department finds the drug product is not used in the illegal manufacture of methamphetamine or other controlled or dangerous substances. The department of health and senior services shall rely on reports from law enforcement and law enforcement evidentiary laboratories in determining if the proposed product can be used to manufacture illicit controlled substances.

…

Vernon's Annotated Missouri Statutes
Title XII. Public Health and Welfare
Chapter 195. Drug Regulations
Manufacturers--Wholesalers--Retailers--Sale or Transfer of Chemicals, Regulation
195.417. Limit on sale or dispensing of certain drugs, exceptions--accessibility of records--violations, penalty

…

4. All packages of any compound, mixture, or preparation containing any detectable quantity of ephedrine, phenylpropanolamine, or pseudoephedrine, or any of their salts or optical isomers, or salts of optical isomers, except

those that are excluded from Schedule V in subsection 17 or 18 of section 195.017, shall be offered for sale only from behind a pharmacy counter where the public is not permitted, and only by a registered pharmacist or registered pharmacy technician under section 195.017.

…

Missouri Code of State Regulations
Title 19 - Department of Health and Senior Services
Division 30 - Division of Regulation and Licensure
Chapter 1 - Controlled Substances
19 CSR 30-1.074 Dispensing Without a Prescription

PURPOSE: This rule provides for dispensing Schedule V controlled substances without a prescription in certain situations

(1) Definitions. For the purposes of this rule, the following terms shall apply:

(A) "Dispenser" means a pharmacist, intern pharmacist, or registered pharmacy technician who sells, dispenses, or otherwise provides methamphetamine precursor products to purchasers.

(B) Methamphetamine precursor products" means both Schedule V pseu-doephedrine products and any other drug product containing any detectable amount of ephedrine, pseudoephedrine, or phenyl-propanolamine, including the salts or opticalisomers or salts of optical isomers or ephedrine, its salts or optical isomers, or salts of optical isomers of ephedrine, pseudoephedrine, or phenylpropanolamine.

…

(3) Methamphetamine precursor products may be sold, dispensed, distributed, or otherwise provided only as follows:

(A) Products that are designated Schedule V controlled substances which contain any detectable amount of pseudoephedrine, ephedrine, phenylpropanolamine, their salts or optical isomers, or salts of their optical isomers may be sold, distributed, or otherwise provided only by a pharmacist or pharmacy ancillary personnel as authorized by the Missouri State Board of Pharmacy;

…

Montana

Montana Code Annotated
Title 50. Health and Safety
Chapter 32. Controlled Substances
Part 5. Regulation of Ephedrine and Pseudoephedrine
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.

…

(5) This section does not apply to:

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

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

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

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

Administrative Rules of Montana
Title 23. Department of Justice
Chapter 12. Law Enforcement Services Division
Sub-chapter 8. Regulation of Ephedrine or Pseudoephedrine
23.12.801. DEFINITIONS

(1) “Licensed community pharmacy” means a pharmacy situated within ten miles of any place at which a licensed medical practitioner maintains an office for professional practice.

(2) “Retail establishment” means the registered owner of a business that sells products containing ephedrine or pseudoephedrine to the public.

Administrative Rules of Montana
Title 23. Department of Justice
Chapter 12. Law Enforcement Services Division
Sub-chapter 8. Regulation of Ephedrine or Pseudoephedrine
23.12.802. RETAIL ESTABLISHMENTS ELIGIBLE TO APPLY FOR CERTIFICATION

(1) A retail establishment is eligible to apply for certification with the department if:

(a) it is at least 5000 square feet in size;

(b) it sells 1000 separate items of product;

(c) it has a secure display location not accessible to customers, either behind a store counter or in a locked case, available for selling products that contain ephedrine or pseudoephedrine;

(d) it limits sales of products containing ephedrine or pseudoephedrine to packages containing no more than a total of nine grams; and

(e) it agrees to track customer sales and to prevent a customer from purchasing more than nine grams of

products containing ephedrine or pseudoephedrine in any 30-day period.

Administrative Rules of Montana
Title 23. Department of Justice
Chapter 12. Law Enforcement Services Division
Sub-chapter 8. Regulation of Ephedrine or Pseudoephedrine
23.12.803. REQUIREMENTS FOR CERTIFICATION

(1) An eligible retail establishment will be certified by the department after it completes the certification requirements set forth in this sub-chapter.

(2) To be eligible for certification, a retail establishment must:

(a) submit a record keeping plan for approval by the department;

(b) submit to a site visit conducted by the department or local law enforcement; and

(c) complete training provided by the department or local law enforcement that covers the record keeping requirements for retail establishments and issues related to the production of methamphetamine.

(3) Upon completion of these requirements, a retail business may apply, on the form provided by the department, for certification.

(4) If a retail establishment meets the eligibility standards and has successfully completed the certification requirements, the department shall certify the retail establishment.

Nebraska

Revised Statutes of Nebraska Annotated
Chapter 28. Crimes and Punishments
Article 4. Drugs and Narcotics
28-456. Phenylpropanolamine or pseudoephedrine; sold without a prescription; requirements; enforcement

(1) Any drug products containing phenylpropanolamine, pseudoephedrine, or their salts, optical isomers, or salts of such optical isomers may be sold without a prescription only if they are:

…

(d) Sold by a person, eighteen years of age or older, in the course of his or her employment to a customer, eighteen years of age or older, with the following restrictions:

(i) No customer shall be allowed to purchase, receive, or otherwise acquire more than three and six-tenths grams of pseudoephedrine base or three and six-tenths grams of phenylpropanolamine base during a twenty-four-hour period;

(ii) No customer shall purchase, receive, or otherwise acquire more than nine grams of pseudoephedrine base or nine grams of phenylpropanolamine base during a thirty-day period; and

(iii) The customer shall display a valid driver's or operator's license, a Nebraska state identification card, a military identification card, an alien registration card, or a passport as proof of identification; and

…

Revised Statutes of Nebraska Annotated
Chapter 28. Crimes and Punishments
Article 4. Drugs and Narcotics
28-458. Methamphetamine precursor; terms, defined

<Section effective January 1, 2012.>

For purposes of sections 28-458 to 28-462:

…

(2) Methamphetamine precursor means any drug product containing ephedrine, pseudoephedrine, or phenylpropanolamine that is required to be documented pursuant to the logbook requirements of 21 U.S.C. 830;

(3) Seller means any person who lawfully sells a methamphetamine precursor pursuant to subdivision (1)(d) of section 28-456 or his or her employer; and

…

Nevada inconsistentAsk Sherry

Nevada Revised Statutes Annotated
Title 40. Public Health and Safety (Chapters 439-461A)
Chapter 453. Controlled Substances
Methamphetamine Precursors
453.352. Definitions

As used in NRS 453.352 to 453.359, inclusive, unless the context otherwise requires, the words and terms defined in NRS 453.3525, 453.353 and 453.3535 have the meanings ascribed to them in those sections.

Nevada Revised Statutes Annotated
Title 40. Public Health and Safety (Chapters 439-461A)
Chapter 453. Controlled Substances
Methamphetamine Precursors
453.353. "Product that is a precursor to methamphetamine" defined

"Product that is a precursor to methamphetamine" means a product that contains ephedrine, pseudoephedrine or phenylpropanolamine or the salts, optical isomers or salts of optical isomers of such chemicals and may be marketed or distributed lawfully in the United States under the Federal Food, Drug and Cosmetic Act, 21 U.S.C. §§ 301 et seq., as a nonprescription drug.

Nevada Revised Statutes Annotated
Title 40. Public Health and Safety (Chapters 439-461A)
Chapter 453. Controlled Substances
Methamphetamine Precursors
453.3535. "Retail distributor" defined

"Retail distributor" means a grocery store, general merchandise store, drugstore, pharmacy or other entity or person whose activities as a distributor of a product that is a precursor to methamphetamine are limited exclusively or almost exclusively to sales for personal use by an ultimate user, both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales.

Nevada Revised Statutes Annotated

Title 40. Public Health and Safety (Chapters 439-461A)
Chapter 453. Controlled Substances
Methamphetamine Precursors
453.354. Manner of keeping, storing or placing methamphetamine precursor

A retail distributor shall keep, store or place a product that is a precursor to methamphetamine in a locked case or cabinet or behind a counter so that the public does not have direct access to the product before a sale or transfer is made.

Nevada Revised Statutes Annotated
Title 54. Professions, Occupations and Businesses (Chapters 622-656A)
Chapter 639. Pharmacists and Pharmacy
Products That Are Precursors to Methamphetamine
639.400. "Product that is a precursor to methamphetamine" defined

As used in this section and NRS 639.410 and 639.420, "product that is a precursor to methamphetamine" means a product which contains ephedrine, pseudoephedrine or phenylpropanolamine or the salts, optical isomers or salts of optical isomers of such chemicals and may be marketed or distributed lawfully in the United States under the Federal Food, Drug and Cosmetic Act, 21 U.S.C. §§ 301 et seq., as a nonprescription drug.

Nevada Revised Statutes Annotated
Title 54. Professions, Occupations and Businesses (Chapters 622-656A)
Chapter 639. Pharmacists and Pharmacy
Products That Are Precursors to Methamphetamine
639.410. Sales of products that are precursors to methamphetamine

A person shall not sell or transfer to an ultimate user in the course of any business, or engage in the business of selling to ultimate users, a product that is a precursor to methamphetamine, unless the person is a pharmacy.

New Jersey

New Jersey Statutes Annotated
Title 2C. The New Jersey Code of Criminal Justice
Subtitle 2. Definition of Specific Offenses
Part 5. Offenses Against Public Order, Health and Decency
Chapter 35. Controlled Dangerous Substances
2C:35-2. Definitions

As used in this chapter:

…

"Person" means any corporation, association, partnership, trust, other institution or entity, or one or more individuals.

…

New Jersey Statutes Annotated
Title 2C. The New Jersey Code of Criminal Justice
Subtitle 2. Definition of Specific Offenses
Part 5. Offenses Against Public Order, Health and Decency
Chapter 35. Controlled Dangerous Substances
2C:35-25. Restrictions on retail sales of ephedrine products; disorderly persons offense; exceptions

a. Except as provided in subsection d. of this section, no person shall sell, offer for sale or purchase in any single

retail transaction more than:

(1) three packages, or any number of packages that contain a total of nine grams, of any drug containing a sole active ingredient of ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers or salts of optical isomers, or

(2) three packages of any combination drug containing, as one of its active ingredients, ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers or salts of optical isomers, or any number of packages of such combination drug that contain a total of nine grams of ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers or salts of optical isomers.

b. As used in this section, "drug" has the meaning as defined in R.S.24:1-1.

c. A violation of this section is a disorderly persons offense.

d. This act shall not apply to a drug lawfully prescribed or administered by a licensed physician, veterinarian or dentist.

New Jersey Statutes Annotated
Title 2C. The New Jersey Code of Criminal Justice
Subtitle 2. Definition of Specific Offenses
Part 5. Offenses Against Public Order, Health and Decency
Chapter 35. Controlled Dangerous Substances
2C:35-26. Reporting loss of ephedrine products to law enforcement authorities

Every pharmacy, store and other retail mercantile establishment shall promptly communicate to local law enforcement authorities the confirmed report of, or actual knowledge of, a loss of 30 or more grams of any drug containing a sole active ingredient of ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers or salts of optical isomers. As used in this section, "store or other retail mercantile establishment" means a place where merchandise is displayed, held, stored or sold or offered to the public for sale.

New Mexico

New Mexico Statutes Annotated
Chapter 30. Criminal Offenses
Article 31. Controlled Substances
§ 30-31-10. Schedule V

A. The following controlled substances are included in Schedule V:

…

(2) any compound, mixture or preparation that contains any detectable quantity of pseudoephedrine, its salts or its optical isomers, or salts of its optical isomers. A compound, mixture or preparation as specified in this paragraph shall be dispensed, sold or distributed only by a licensed pharmacist or pharmacist intern or a registered pharmacy technician. Unless pursuant to a valid prescription, a person purchasing, receiving or otherwise acquiring the compound, mixture or preparation shall:

…

C. The board may, by rule, exempt a product containing pseudoephedrine from Schedule V if the board determines that the product is formulated as to effectively prevent the conversion of pseudoephedrine into methamphetamine.

…

Code of New Mexico Rules
Title 16. Occupational and Professional Licensing
Chapter 19. Pharmacists
Part 20. Controlled Substances
16.19.20. CONTROLLED SUBSTANCES

…

16.19.20.53 DISPENSING WITHOUT PRESCRIPTION:

…

B. Exempt pseudoephedrine product.

(1) Any pseudoephedrine containing product listed as a Schedule V Controlled Substance in Paragraph (2) of Subsection B of 16.19.20.69 NMAC shall be dispensed, sold or distributed only by a licensed pharmacist, pharmacist intern, or a registered pharmacy technician.

…

16.19.20.69 SCHEDULE V:

…

B. Stimulants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers.

…

(2) Pseudoephedrine as a drug that includes any compound, mixture, or preparation that contains any detectable quantity of pseudoephedrine, its salts or its optical isomers, or salts of its optical isomers. Pursuant to 30-31-10.C the following substances are excluded from Schedule V controlled substances: pseudoephedrine products in liquid form including liquid filled gel caps and pseudoephedrine products already classified as dangerous drugs.

…

North Carolina

North Carolina General Statutes Annotated
Chapter 66. Commerce and Business
Article 32. Peddlers, Itinerant Merchants, and Specialty Markets
§ 66-250. Definitions

The following definitions apply in this Article:

(1) Itinerant merchant.--A person, other than a merchant with an established retail store in the county, who transports an inventory of goods to a building, vacant lot, or other location in a county and who, at that location, displays the goods for sale and sells the goods at retail or offers the goods for sale at retail.

(2) Peddler.--A person who travels from place to place with an inventory of goods, who sells the goods at retail or offers the goods for sale at retail, and who delivers the identical goods.

…

(5) Specialty market operator.--A person, other than the State or a unit of local government, who rents space, at a location other than a permanent retail store, to others for the purpose of selling goods at retail or offering goods for sale at retail.

(6) Specialty market vendor.--A person, other than a merchant with an established retail store in the county, who transports an inventory of goods to a specialty market and, at that location, displays the goods for sale and sells the goods at retail or offers the goods for sale at retail.

North Carolina General Statutes Annotated
Chapter 66. Commerce and Business
Article 32. Peddlers, Itinerant Merchants, and Specialty Markets
§ 66-254.1. Certain sales prohibited

No person who is described by G.S. 66-250(1), (2), (5), or (6) shall sell or offer to sell any product that meets any of the following criteria:

(1) The product contains pseudoephedrine as the sole active ingredient or in combination with other active ingredients.

(2) The product is a drug as defined by G.S. 106-121(6).

Any person who violates this section shall be guilty of a Class 1 misdemeanor for the first offense, a Class A1 misdemeanor for a second offense, and a Class I felony for a third or subsequent offense.

North Carolina General Statutes Annotated
Chapter 90. Medicine and Allied Occupations
Article 5D. Control of Methamphetamine Precursors
§ 90-113.51. Definitions

(a) For purposes of this Article, "pseudoephedrine product" means a product containing any detectable quantity of pseudoephedrine or ephedrine base, their salts or isomers, or salts of their isomers.

(b) For purposes of this Article, a "retailer" means an individual or entity that is the general owner of an establishment where pseudoephedrine products are available for sale.

…

North Carolina General Statutes Annotated
Chapter 90. Medicine and Allied Occupations
Article 5D. Control of Methamphetamine Precursors
§ 90-113.52. Pseudoephedrine: restrictions on sales

…

(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.

…

(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.

North Carolina General Statutes Annotated
Chapter 90. Medicine and Allied Occupations
Article 5D. Control of Methamphetamine Precursors
§ 90-113.56. Penalties

(a) If a retailer willfully and knowingly violates the provisions of G.S. 90-113.52, 90-113.52A, 90-113.53, or 90-113.54, the retailer shall be guilty of a Class A1 misdemeanor for the first offense and a Class I felony for a second or subsequent offense. A retailer convicted of a third offense occurring on the premises of a single establishment shall be prohibited from making pseudoephedrine products available for sale at that establishment.

(b) Any purchaser or employee who willfully and knowingly violates G.S. 90-113.52A, G.S. 90-113.52(c) or G.S. 90-113.53 shall be guilty of a Class 1 misdemeanor for the first offense, a Class A1 misdemeanor for a second offense, and a Class I felony for a third or subsequent offense. This subsection shall not be construed to apply to bona fide innocent purchasers.

North Carolina General Statutes Annotated
Chapter 90. Medicine and Allied Occupations
Article 5D. Control of Methamphetamine Precursors
§ 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.

North Dakota

North Dakota Century Code Annotated
Title 19. Foods, Drugs, Oils, and Compounds
Chapter 19-01. Administration
§ 19-01-01. Definitions of terms used in title

In this title, unless the context or subject matter otherwise requires:

…

2. “Person” includes both the singular and the plural, as the case demands, and includes individuals, partnerships, corporations, limited liability companies, companies, and associations, or two or more individuals having a joint or common interest.

North Dakota Century Code Annotated
Title 19. Foods, Drugs, Oils, and Compounds
Chapter 19-03.1. Uniform Controlled Substances Act
§ 19-03.1-01. Definitions

As used in this chapter and in chapters 19-03.2 and 19-03.4, unless the context otherwise requires:

…

21. "Over-the-counter sale" means a retail sale of a drug or product other than a controlled, or imitation controlled, substance.

…

27. "Scheduled listed chemical product" means a product that contains ephedrine,pseudoephedrin, or phenylpropanolamine, or each of the salts, optical isomers, and salts of optical isomers of each chemical, and that may be marketed or distributed in the United States under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.] as a nonprescription drug unless prescribed by a licensed physician.

…

North Dakota Century Code Annotated
Title 19. Foods, Drugs, Oils, and Compounds
Chapter 19-03.4. Drug Paraphernalia
§ 19-03.4-08. Retail or over-the-counter sale of scheduled listed chemical products--Penalty

1. The retail sale of scheduled listed chemical products is limited to:

a. Sales in packages containing not more than a total of two grams of one or more scheduled listed chemical products, calculated in terms of ephedrine base, pseudoephedrine base, and phenylpropanolamine base; and

b. Sales in blister packs, each blister containing not more than two dosage units, or when the use of blister packs is technically infeasible, sales in unit dose packets or pouches.

2. A person may not:

a. Deliver in a single over-the-counter sale more than two packages of a scheduled listed chemical product or a combination of scheduled listed chemical products; or

b. Without regard to the number of over-the-counter sales, deliver more than a daily amount of three and six-tenths grams of scheduled listed chemical products, calculated in terms of ephedrine base, pseudoephedrine base, and phenylpropanolamine base, to a purchaser.

…

Ohio

Baldwin's Ohio Revised Code Annotated
Title XXIX. Crimes--Procedure
Chapter 2925. Drug Offenses
Pseudoephedrine Sales
2925.55 Unlawful purchase or receipt of pseudoephedrine product

<Note: See also version(s) of this section with earlier effective date(s).>

(A) As used in sections 2925.55 to 2925.58 of the Revised Code:

…

(2) “Terminal distributor of dangerous drugs” has the same meaning as in section 4729.01 of the Revised Code.

(3) “Pseudoephedrine” means any material, compound, mixture, or preparation that contains any quantity of pseudoephedrine, any of its salts, optical isomers, or salts of optical isomers.

(4) “Pseudoephedrine product” means a consumer product that contains pseudoephedrine.

(5) “Retailer” means a place of business that offers consumer products for sale to the general public.

(6) “Single-ingredient preparation” means a compound, mixture, preparation, or substance that contains a single active ingredient.

(7) “Ephedrine” means any material, compound, mixture, or preparation that contains any quantity of ephedrine, any of its salts, optical isomers, or salts of optical isomers.

(8) “Ephedrine product” means a consumer product that contains ephedrine.

…

Baldwin's Ohio Revised Code Annotated
Title XXIX. Crimes--Procedure
Chapter 2925. Drug Offenses
Pseudoephedrine Sales
2925.56 Unlawful sale of pseudoephedrine product

(A)(1) Except as provided in division (A)(2) of this section, no retailer or terminal distributor of dangerous drugs or an employee of a retailer or terminal distributor of dangerous drugs shall knowingly sell, offer to sell, hold for sale, deliver, or otherwise provide to any individual an amount of pseudoephedrine product or ephedrine product that is greater than either of the following:

(a) Three and six tenths grams within a period of a single day;

(b) Nine grams within a period of thirty consecutive days.

…

Baldwin's Ohio Revised Code Annotated
Title XXXVII. Health--Safety--Morals
Chapter 3715. Pure Food and Drug Law
General Provisions
3715.05 Requirements of retailers or terminal distributors providing pseudoephedrine to public; inspection of prescriptions and records by government officials and employees

(A) As used in this section and sections 3715.051 to 3715.054 and 3715.06 of the Revised Code:

…

(2) “Drug,” “licensed health professional authorized to prescribe drugs,” “pharmacy,” “prescriber,” “prescription,” and “terminal distributor of dangerous drugs” have the same meanings as in section 4729.01 of the Revised Code.

(3) “Ephedrine” means any material, compound, mixture, or preparation that contains any quantity of ephedrine, any of its salts, optical isomers, or salts of optical isomers.

(4) “Ephedrine product” means a consumer product that contains ephedrine.

…

(9) “Pseudoephedrine” means any material, compound, mixture, or preparation that contains any quantity of pseudoephedrine, any of its salts, optical isomers, or salts of optical isomers.

(10) “Pseudoephedrine product” means a consumer product that contains pseudoephedrine.

(11) “Retailer” means a place of business that offers consumer products for sale to the general public.

…

(B) A retailer or terminal distributor of dangerous drugs that sells, offers to sell, holds for sale, delivers, or otherwise provides a pseudoephedrine product to the public shall do all of the following:

(1) Segregate pseudoephedrine products from other merchandise so that no member of the public may procure or purchase such products without the direct assistance of a pharmacist or other authorized employee of the retailer or terminal distributor of dangerous drugs;

…

Baldwin's Ohio Revised Code Annotated
Title XXXVII. Health--Safety--Morals
Chapter 3719. Controlled Substances
Schedules of Controlled Substances
3719.41 Schedules of controlled substances

Publisher's Note: *Pursuant to RC 3719.43, changes to the federal schedules of controlled substances (see, e.g., 21 USCA § 811, et seq., and 21 CFR § 1308.01, et seq.) automatically become part of the corresponding schedule or schedules in RC 3719.41. Pursuant to RC 3719.44, the State Board of Pharmacy may also change the schedules in RC 3719.41.*

Controlled substance schedules I, II, III, IV, and V are hereby established, which schedules include the following, subject to amendment pursuant to section 3719.43 or 3719.44 of the Revised Code.

…

SCHEDULE V

…

Unless specifically exempted or excluded under federal drug abuse control laws or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers:

(1) Ephedrine, except as provided in division (K) of section 3719.44 of the Revised Code;

…

Baldwin's Ohio Revised Code Annotated
Title XXXVII. Health--Safety--Morals
Chapter 3719. Controlled Substances
Schedules of Controlled Substances
3719.44 Board of pharmacy may change schedules

…

(K)(1) A drug product containing ephedrine that is known as one of the following and is in the form specified shall not be considered a schedule V controlled substance:

(a) Amesec capsules;

(b) Bronitin tablets;

(c) Bronkotabs;

(d) Bronkolixir;

(e) Bronkaid tablets;

(f) Efedron nasal jelly;

(g) Guiaphed elixir;

(h) Haysma;

(i) Pazo hemorrhoid ointment and suppositories;

(j) Primatene “M” formula tablets;

(k) Primatene “P” formula tablets;

(l) Tedrigen tablets;

(m) Tedral tablets, suspension and elixir;

(n) T.E.P.;

(o) Vatronol nose drops.

(2)(a) A product containing ephedrine shall not be considered a controlled substance if the product is a food product or dietary supplement that meets all of the following criteria:

(i) It contains, per dosage unit or serving, not more than the lesser of twenty-five milligrams of ephedrine alkaloids or the maximum amount of ephedrine alkaloids provided in applicable regulations adopted by the United States food and drug administration, and no other controlled substance.

(ii) It contains no hydrochloride or sulfate salts of ephedrine alkaloids.

(iii) It is packaged with a prominent label securely affixed to each package that states all of the following: the amount in milligrams of ephedrine in a serving or dosage unit; the amount of the food product or dietary supplement that constitutes a serving or dosage unit; that the maximum recommended dosage of ephedrine for a healthy adult human is the lesser of one hundred milligrams in a twenty-four-hour period for not more than twelve weeks or the maximum recommended dosage or period of use provided in applicable regulations adopted by the United States food and drug administration; and that improper use of the product may be hazardous to a person's health.

…

(4) At the request of any person, the board may except any product containing ephedrine not described in division (K)(1) or (2) of this section or any class of products containing ephedrine from being included as a schedule V controlled substance if it determines that the product or class of products does not contain any other controlled substance. The board shall make the determination in accordance with this section and by rule adopted in accordance with Chapter 119. of the Revised Code.

(L) As used in this section:

(1) "Food" has the same meaning as in section 3715.01 of the Revised Code.

(2) "Dietary supplement" has the same meaning as in the "Federal Food, Drug, and Cosmetic Act," 108 Stat. 4327 (1994), 21 U.S.C.A. 321 (ff), as amended.

(3) "Ephedrine alkaloids" means ephedrine, pseudoephedrine, norephedrine, norpseudoephedrine, methylephedrine, and methylpseudoephedrine.

Baldwin's Ohio Administrative Code Annotated
4729 Pharmacy Board
Chapter 4729-11. Controlled Substances
4729-11-09 Sale of schedule V controlled substance products without a prescription

A schedule V controlled substance product which is not a prescription drug as determined under the "Federal Food, Drug and Cosmetic Act" may be sold at retail by a pharmacist without a prescription to a purchaser at retail provided that:

(A) The sale is made only by a pharmacist or a pharmacy intern under the direct supervision of a pharmacist and not by a nonpharmacist employee even if under the supervision of a pharmacist (although after the pharmacist has fulfilled his professional and legal responsibilities in this section, the actual cash, credit transaction, or delivery may be completed by a nonpharmacist).

…

Baldwin's Ohio Administrative Code Annotated
4729 Pharmacy Board
Chapter 4729-12. Ephedrine
4729-12-01 Definition of ephedrine

Ephedrine is <<alpha>> -[-(Methylamino)ethyl]benzene-methanol; <<alpha>>-[1-(methylamino)ethyl]benzyl alcohol; 2-methylamino-1-phenyl-1-propanol; 1-phenyl-1-hydroxy-2-methylaminopropane; 1-phenyl-2-methylaminopropanol; <<alpha>>-hydroxy-J-methylaminopropylbenzene; a product which occurs in the Chinese herb Ma Huang (*Ephedra vulgaris, Ephedra sinica*Stapf., *Ephedra equisetina* Bunge, *Gnetaceae*) and in several other Ephedra spp. isomeric forms include *d*- and *l*-ephedrine as well as *d*- and *l*-pseudoephedrine with *l*-ephedrine and *d*-pseudoephedrine as the naturally occurring isomers.

Baldwin's Ohio Administrative Code Annotated
4729 Pharmacy Board
Chapter 4729-12. Ephedrine
4729-12-02 Registration and licensure

(A) Any person who manufactures, sells at wholesale or retail, dispenses, imports or exports products containing ephedrine, its salts or isomers, or who proposes to engage in such activities, shall submit an application for registration as a wholesaler of dangerous drugs and controlled substances or for licensure as a category III terminal distributor of dangerous drugs to conduct such activities in accordance with Chapters 3719. and 4729. of the Revised

Code.

(B) This rule does not apply if the ephedrine product is a food product or a dietary supplement that is specifically excepted in division (K)(2) of section 3719.44 of the Revised Code.

Baldwin's Ohio Administrative Code Annotated
4729 Pharmacy Board
Chapter 4729-12. Ephedrine
4729-12-03 Security, storage, and sale

(A) Schedule V products containing ephedrine may be sold at wholesale or retail, and must be maintained in accordance with Chapters 3719. and 4729. of the Revised Code and Chapters 4729-9 and 4729-11 of the Administrative Code.

(B) This rule does not apply if the ephedrine product is a food product or a dietary supplement that is specifically excepted in division (K)(2) of section 3719.44 of the Revised Code.

Baldwin's Ohio Administrative Code Annotated
4729 Pharmacy Board
Chapter 4729-12. Ephedrine
4729-12-09 Exceptions

Pursuant to division (K) of section 3719.44 of the Revised Code, each of the following products containing ephedrine, its salts, its isomers, or the salts of its isomers is declared to be excepted from classification as a schedule V controlled substance:

(A) All products that contain the isomer known as pseudoephedrine or its salts, but do not also contain any of the isomer known as ephedrine or its salts.

(B) “Breathe Easy®” herb tea.

(C) “Bronkaid® Dual Action” caplets.

(D) “Hydrosal® hemorrhoidal ointment.

(E) “Primatene® Dual Action Formula” tablets.

(F) “Primatene®” tablets.

(G) “SnoreStopt” tablets.

Oklahoma

Oklahoma Statutes Annotated
Title 63. Public Health and Safety
Chapter 2. Uniform Controlled Dangerous Substances Act
Article II. Standards and Schedules
§ 2-212. Schedule V

A. The controlled substances listed in this section are included in Schedule V.

…

2. Any compound, mixture, or preparation containing any detectable quantity of base pseudoephedrine or ephedrine, its salts or optical isomers, or salts of optical isomers. If any compound, mixture, or preparation as specified in this paragraph is dispensed, sold, or distributed in a pharmacy:

a. it shall be dispensed, sold, or distributed only by, or under the supervision of, a licensed pharmacist or a registered pharmacy technician,

…

B. The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, by rule, may exempt other products from this Schedule which the Director finds are not used in the illegal manufacture of methamphetamine or other controlled dangerous substances. A manufacturer of a drug product may apply for removal of the product from the Schedule if the product is determined by the Director to have been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine.

…

Oklahoma Administrative Code
Title 475. Oklahoma Bureau of Narcotics and Dangerous Drugs Control
Chapter 55. Pseudoephedrine Control
475:55-1-1. Purpose

(a) The Oklahoma Bureau of Narcotics and Dangerous Drugs Control has been granted statutory authority by 63 O.S., 2-301 to "promulgate rules and regulations relating to the registration and control of the manufacture, distribution, dispensing, prescribing, administering or use for scientific purposes of controlled dangerous substances within this state." Furthermore, 63 O.S., 2-212 authorizes the Oklahoma Bureau of Narcotics and Dangerous Drugs Control to promulgate rules specifically for Schedule V pseudoephedrine products. These statutes, as well as the entire Oklahoma Uniform Controlled Dangerous Substances Act, O.S. 63 Chapter 2, and the Oklahoma Administrative Code Title 475, are used as guiding authorities for the specific points of these rules and regulations.

(b) The rules of this Chapter specify the requirements for pseudoephedrine control in Oklahoma. Included in this Chapter are characteristics of exempt pseudoephedrine products, pharmacy requirements, dispensing pseudoephedrine products, thirty-day requirement, special registration for distribution centers, lawful possession of Schedule V pseudoephedrine products, records and invoices, labeling, prescriptions, distributor and warehouse storage of Schedule V pseudoephedrine, and criteria for exemption.

Oklahoma Administrative Code
Title 475. Oklahoma Bureau of Narcotics and Dangerous Drugs Control
Chapter 55. Pseudoephedrine Control
475:55-1-2. Characteristics of exempt pseudoephedrine products

(a) All products that are either: (1) soft gelatin liquid-filled capsules; or, (2) liquid preparations, are exempt from Schedule V. Conversely, all solid dosage forms of medications, including powders, that contain any quantity of pseudoephedrine are classified as Schedule V controlled dangerous substances and are subject to the rules of this section.

(b) The term "gel capsule," as specified in O.S. Title 63, means any soft gelatin liquid-filled capsule that contains a liquid suspension, which, in the case of pseudoephedrine, is suspended in a matrix of glycerin, polyethylene glycol, and propylene glycol, along with other liquid substances. Regardless of the product manufacturers' labeling, a gelatin-covered solid does not constitute a "gel capsule" under this provision.

(c) The term "active ingredient," as specified in O.S. Title 63, shall include the matrix of glycerin, polyethylene glycol, and propylene glycol that is found in liquid capsules.

(d) Nothing in this section shall exempt from Schedule V status any liquid preparation that is found in an illegal laboratory, is associated with an illegal laboratory, or is in any form other than that manufactured and sold by a registered manufacturer for medicinal purposes.

Oklahoma Administrative Code
Title 475. Oklahoma Bureau of Narcotics and Dangerous Drugs Control
Chapter 55. Pseudoephedrine Control
475:55-1-3. Pharmacy requirements

Schedule V pseudoephedrine substances may be sold only in licensed pharmacies that are registered with the Oklahoma Bureau of Narcotics and Dangerous Drugs Control. These substances, as a special class of Schedule V controlled substances, shall be kept in a locked environment (shelving unit, safe, cabinet, etc.) that is within view of the pharmacy, or behind the pharmacy counter. As specified in 63 OS, 2-303 (1), 2-304 (A)-4, and OAC 475:20-1-2, the pharmacist and those with access to pseudoephedrine products will have an affirmative duty to guard against the theft and diversion of these products.

Oklahoma Administrative Code
Title 475. Oklahoma Bureau of Narcotics and Dangerous Drugs Control
Chapter 55. Pseudoephedrine Control
475:55-1-7. Lawful possession of Schedule V pseudoephedrine

(a) The following persons are allowed to lawfully possess Schedule V pseudoephedrine while in the course of legitimate business:

…

(4) A pharmacy licensed by the Oklahoma State Board of Pharmacy; and

(5) A physician, certified registered nurse anesthetist, advance practice nurse, physician's assistant, or other person, registered with the Oklahoma Bureau of Narcotics and Dangerous Drugs Control.

(b) These individuals will be required to guard against the diversion of controlled drugs and are subject to the rules and regulations pertaining to registrants handling, reporting, dispensing controlled dangerous drugs, and submission to inspections by peace officers as set forth in 63 O.S. and OAC 475.

South Carolina

Code of Laws of South Carolina 1976 Annotated
Title 23. Law Enforcement and Public Safety
Chapter 3. South Carolina Law-Enforcement Division
Article 14. Electronic Monitoring System
§ 23-3-1200. SLED electronic monitoring system; collection, storage and use of information.

…

(F) For purposes of this section "retailer" means a retail distributor, including a pharmacy, where ephedrine, pseudoephedrine, or phenylpropanolamine products are available for sale and does not include an employee or agent of a retailer.

…

Code of Laws of South Carolina 1976 Annotated
Title 44. Health
Chapter 53. Poisons, Drugs and Other Controlled Substances
Article 3. Narcotics and Controlled Substances

§ 44-53-398. Sale of products containing ephedrine or pseudoephedrine; penalties; training of sales personnel.

(A) Nonprescription products whose sole active ingredient is ephedrine, pseudoephedrine, or phenylpropanolamine may be offered for retail sale only if sold in blister packaging. The retailer shall ensure that such products are not offered for retail sale by self-service but only from behind a counter or other barrier so that such products are not directly accessible by the public but only by an employee or agent of the retailer.

…

(M) For purposes of this section "retailer" means a retail distributor, including a pharmacy, where ephedrine, pseudoephedrine, or phenylpropanolamine products are available for sale and does not include an employee or agent of a retailer.

South Dakota

South Dakota Codified Laws
Title 34. Public Health and Safety
Chapter 34-20D. Products Containing Pseudoephedrine or Ephedrine
34-20D-1. Sale of packages containing pseudoephedrine or ephedrine--Number in single transaction limited--Exception--Misdemeanor

No retailer may sell, in a single transaction, more than two packages containing pseudoephedrine or ephedrine as an active ingredient. For purposes of this chapter, the term, retailer, means any person who sells merchandise at retail and from whom original packages of nonprescription drugs are sold or taken to be sold at retail and who is licensed by the Board of Pharmacy to sell nonprescription drugs. This restriction does not apply to any sale made pursuant to a valid prescription drug order prescribed by a practitioner as defined in § 36-11-2 with appropriate authority. Any retailer or any employee of a retailer who sells packages containing pseudoephedrine or ephedrine in violation of this section is guilty of a Class 1 misdemeanor.

Tennessee

Tennessee Code Annotated
Title 39. Criminal Offenses
Chapter 17. Offenses Against Public Health, Safety and Welfare
Part 4. Drugs
§ 39-17-402. Definitions; schedules

As used in this part and title 53, chapter 11, parts 3 and 4, unless the context otherwise requires:

…

(13) “Immediate methamphetamine precursor” means ephedrine, pseudoephedrine or phenylpropanolamine, or their salts, isomers or salts of isomers, or any drug or other product that contains a detectable quantity of ephedrine, pseudoephedrine or phenylpropanolamine, or their salts, isomers or salts of isomers;

…

Tennessee Code Annotated
Title 39. Criminal Offenses
Chapter 17. Offenses Against Public Health, Safety and Welfare
Part 4. Drugs
§ 39-17-431. Products containing immediate methamphetamine precursors; violations and penalties

(a) Except as provided in this section, any product that contains any immediate methamphetamine precursor may be

dispensed only by a licensed pharmacy.

(b)(1) A product or category of products that contains any immediate methamphetamine precursor shall be exempt from the requirements of this section if the ingredients are not in a form that can be used in the manufacture of methamphetamine.

…

(p) For the purposes of this section, "pharmacy" means only a pharmacy operating under title 63, chapter 10, which sells any immediate methamphetamine precursor at retail to the public.

Texas

Vernon's Texas Statutes and Codes Annotated
Health and Safety Code
Title 6. Food, Drugs, Alcohol, and Hazardous Substances
Subtitle C. Substance Abuse Regulation and Crimes
Chapter 486. Over-The-Counter Sales of Ephedrine, Pseudoephedrine, and Norpseudoephedrine
Subchapter A. General Provisions
§ 486.001. Definitions

(a) In this chapter:

…

(3) "Department" means the Department of State Health Services.

(4) "Ephedrine," "pseudoephedrine," and "norpseudoephedrine" mean any compound, mixture, or preparation containing any detectable amount of that substance, including its salts, optical isomers, and salts of optical isomers. The term does not include any compound, mixture, or preparation that is in liquid, liquid capsule, or liquid gel capsule form.

(5) "Sale" includes a conveyance, exchange, barter, or trade.

…

(b) A term that is used in this chapter but is not defined by Subsection (a) has the meaning assigned by Section 481.002.

Vernon's Texas Statutes and Codes Annotated
Health and Safety Code
Title 6. Food, Drugs, Alcohol, and Hazardous Substances
Subtitle C. Substance Abuse Regulation and Crimes
Chapter 486. Over-The-Counter Sales of Ephedrine, Pseudoephedrine, and Norpseudoephedrine
Subchapter B. Over-The-Counter Sales
§ 486.011. Sales by Pharmacies

A business establishment that operates a pharmacy licensed by the Texas State Board of Pharmacy may engage in over-the-counter sales of ephedrine, pseudoephedrine, and norpseudoephedrine.

Vernon's Texas Statutes and Codes Annotated
Health and Safety Code
Title 6. Food, Drugs, Alcohol, and Hazardous Substances
Subtitle C. Substance Abuse Regulation and Crimes
Chapter 486. Over-The-Counter Sales of Ephedrine, Pseudoephedrine, and Norpseudoephedrine

Subchapter B. Over-The-Counter Sales

§ 486.012. Sales by Establishments Other Than Pharmacies; Certificate of Authority

(a) A business establishment that does not operate a pharmacy licensed by the Texas State Board of Pharmacy may engage in over-the-counter sales of ephedrine, pseudoephedrine, or norpseudoephedrine only if the establishment holds a certificate of authority issued under this section.

(b) The department may issue a certificate of authority to engage in over-the-counter sales of ephedrine, pseudoephedrine, and norpseudoephedrine to a business establishment that does not operate a pharmacy licensed by the Texas State Board of Pharmacy if the establishment:

(1) applies to the department for the certificate in accordance with department rule; and

(2) complies with the requirements established by the department for issuance of a certificate.

(c) The department by rule shall establish requirements for the issuance of a certificate of authority under this section. The rules must include a consideration by the department of whether the establishment:

(1) complies with the requirements of the Texas State Board of Pharmacy for the issuance of a license to operate a pharmacy;

(2) sells a wide variety of healthcare products; and

(3) employs sales techniques and other measures designed to deter the theft of products containing ephedrine, pseudoephedrine, or norpseudoephedrine and other items used in the manufacture of methamphetamine.

(d) The department may inspect or audit a business establishment that is issued a certificate of authority under this section at any time the department determines necessary.

Texas Administrative Code

Title 25. Health Services

Part 1. Department of State Health Services

Chapter 230. Specific Additional Requirements for Drugs

Subchapter B. Limitations on Sales of Products Containing Ephedrine, Pseudoephedrine, and Norpseudoephedrine

§ 230.11. General Provisions

(a) Purpose and applicability. The purpose of these sections is to implement the duties of the Department of State Health Services (department) under the Health and Safety Code (HSC), Chapter 486, relating to over-the-counter sales of ephedrine, pseudoephedrine, and norpseudoephedrine.

(b) Definitions. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise. Unless otherwise specified, the terms have the meaning assigned by HSC, Chapters 481 and 486, or their common use meaning.

(1) Business establishment--A retail distributor such as a grocery store; general merchandise store; drug store; or other entity or person, other than a licensed pharmacy, that engages in direct sales to end-user consumers. A distributor who engages in greater than 5% of gross annual sales of regulated products to other than end-user consumers must obtain a license as a wholesaler under HSC, Chapter 431, Subchapter I or Subchapter N.

(2) Department--The Department of State Health Services.

(3) Certificate of authority (COA)--A grant of authority to engage in over-the-counter sales of regulated

products, issued by the department to a person under this subchapter.

(4) Certificate of authority holder (COA holder)--A person that has been issued a certificate of authority by the department to engage in over-the-counter sales of regulated products.

(5) Pharmacy--A person holding a current license to operate a pharmacy issued by the Texas State Board of Pharmacy (Board of Pharmacy) under Occupations Code, Chapter 560.

(6) Record of sale--The paper or electronic documentation prepared and maintained in compliance with § 230.15 of this title (relating to Records).

(7) Regulated products--Any compound, mixture, or preparation containing any detectable amount of ephedrine, pseudoephedrine, or norpseudoephedrine, including its salts, optical isomers, and salts of optical isomers. The term does not include any compound, mixture, or preparation that is in liquid, liquid capsule, or liquid gel capsule form. A list of regulated products, by name and universal product code (UPC) or stock-keeping unit (SKU) identifiers, may be obtained from the Department of State Health Services, 1100 West 49th, Austin, Texas 78756.

(8) Over-the-counter sale--The sale of not more than two packages or six grams of regulated products, in a single transaction to an individual.

(c) Persons who sell or distribute ephedrine, pseudoephedrine, norpseudoephedrine or phenylpropanolamine may be subject to additional federal statutes and regulations adopted thereunder.

Texas Administrative Code
Title 25. Health Services
Part 1. Department of State Health Services
Chapter 230. Specific Additional Requirements for Drugs
Subchapter B. Limitations on Sales of Products Containing Ephedrine, Pseudoephedrine, and Norpseudoephedrine
§ 230.12. Exemptions

The following persons are exempt from the requirement to obtain a COA from the department before engaging in the sale of regulated products:

(1) a person licensed by the department under HSC, Chapter 431, Subchapter I or N, or who is specifically exempted from licensure under HSC, Chapter 431, Subchapter I or N;

(2) a person licensed as a pharmacist under Occupations Code, Chapter 558, who dispenses or delivers regulated products according to prescription issued by a practitioner for a valid medical purpose and in the course of professional practice; and

(3) a person licensed by the Board of Pharmacy to operate a pharmacy under Occupations Code, Chapter 560. Business establishments operating a licensed pharmacy must follow the requirements of the Texas State Board of Pharmacy and the provisions of HSC, Chapter 486. Those business establishments may not be issued a COA.

Texas Administrative Code
Title 25. Health Services
Part 1. Department of State Health Services
Chapter 230. Specific Additional Requirements for Drugs
Subchapter B. Limitations on Sales of Products Containing Ephedrine, Pseudoephedrine, and Norpseudoephedrine
§ 230.13. Certificate of Authority

(a) General.

(1) Except for persons who are exempt under § 230.12 of this title (relating to Exemptions), a person is prohibited from engaging in over-the-counter sales of regulated products without a COA issued by the department under these sections.

(2) The grant of authority to sell regulated products under a COA confers only the right to sell regulated products in compliance with these sections.

(3) A COA is effective on the date of issuance and terminates on the expiration date. There is no implied or ongoing right or authority to sell regulated products beyond the expiration date on a COA.

(4) A COA confers no right or interest in property.

(5) A separate COA is required for each place of business.

(6) A COA cannot be conveyed, sold or transferred.

(b) Application. A person must submit an application for each place of business on a form, or in an electronic format through Texas Online (www.Texasonline.com), as prescribed by the department. Incomplete applications or applications submitted without the required fees will not be processed by the department. At a minimum the applicant must provide the following information:

(1) the name, home address, and business address of the applicant;

(2) the type of entity, whether sole proprietor, partnership, corporation, or other legal entity;

(3) the registered or trade name under which business is conducted;

(4) the name, residential address, and driver's license number of the person responsible for compliance with these rules at the place of business where regulated products will be sold, as well as all corporate officers, and all partners, if applicable;

(5) the normal business hours of the place of business;

(6) the name(s), address(es), and contact person(s) of the applicant's wholesale distributor(s);

(7) an indication of all health care products, by type, sold at the place of business;

(8) a list or inventory, including brand name, of all regulated products the applicant proposes to sell at the place of business;

(9) a detailed description of training provided to employees or other persons who will have access to; conduct sales of; and/or prepare records of sales of regulated products, including sales techniques and other measures designed to deter theft of regulated products; and

(10) written procedures on how regulated products will be kept; whether behind a sales counter, or in a locked display case within 30 feet and in the direct line of sight of a sales counter continuously staffed by an employee.

(c) Fees. The fee for a COA is $600 for a two-year license. All fees, including any late fee or past due fee, must be paid before a COA will be issued. All fees are non-refundable.

(d) Term and expiration. The term of a COA is two years. The department may stagger the expiration dates of COAs issued under these sections. The department determines the expiration date. The grant of authority to sell regulated products ends on the expiration date indicated on a COA. Any sale under an expired COA is a violation of HSC, Chapter 486, and these rules.

(e) Renewal. The department may renew a COA only if the COA holder is in substantial compliance with these sections. A COA holder must submit a renewal application along with the required fee before the expiration date on the current certificate to avoid a lapse in authority to sell regulated products under these sections.

Texas Administrative Code
Title 25. Health Services
Part 1. Department of State Health Services
Chapter 230. Specific Additional Requirements for Drugs
Subchapter B. Limitations on Sales of Products Containing Ephedrine, Pseudoephedrine, and Norpseudoephedrine

§ 230.14. Minimum Standards for Certificate of Authority

(a) Criminal history of applicant. A COA may be denied to an applicant if the applicant, or a partner, or a corporate officer, or the person responsible for business operations such as a manager, has been convicted of an offense related to the manufacture or sale of illegal drugs or has been convicted of any felony reasonably related to the COA requested.

(b) Failures or omissions. A COA may be denied to an applicant who:

(1) has furnished material information in an application that is false, fraudulent, or misleading;

(2) has failed to establish or maintain effective theft prevention and deterring measures;

(3) has failed to maintain records required to be kept by § 230.15 of this title (relating to Records);

(4) has refused to allow an inspection as authorized by HSC, Chapter 486, or refused or failed to produce required records for inspection; or

(5) has violated HSC, Chapter 486, or these rules.

(c) Theft prevention and deterring measures.

(1) A COA holder shall maintain regulated products behind a sales counter or in a locked case within 30 feet and in direct line of sight from a sales counter continuously staffed by an employee.

(2) A COA holder must document and implement sales techniques and other measures designed to deter the theft of regulated products and other products commonly used in the illicit manufacture of methamphetamines. Written procedures must be developed by the COA holder to include:

(A) security of regulated products, including receiving at the business; storage in the stockroom or other storage facility; and stocking of the sales counter or locked display cabinet;

(B) measures to ensure that employees and other staff who have a criminal drug history do not have access to regulated products; and

(C) measures to ensure that regulated products cannot be accessed without the assistance of an authorized employee of the business.

Texas Administrative Code
Title 25. Health Services
Part 1. Department of State Health Services
Chapter 230. Specific Additional Requirements for Drugs
Subchapter B. Limitations on Sales of Products Containing Ephedrine, Pseudoephedrine, and Norpseudoephedrine
§ 230.17. Enforcement

(a) The department may impose an administrative penalty for a violation of the Health and Safety Code (HSC), Chapter 486, or this subchapter.

(b) The amount of the administrative penalty may not exceed $1,000 per violation. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. The total amount of the penalty assessed for a violation continuing or occurring on separate days may not exceed $20,000.

(c) The amount of the penalty shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) the threat to health or safety caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter a future violation;

(5) whether the violator demonstrated good faith, including good faith efforts to correct the violation; and

(6) any other matter that justice may require.

(d) If the department initially determines that a violation has occurred, the department will provide notice of the violation in writing to the person. The person may respond to the notice in writing not later than the 20th day after the date the person receives the notice, informing the department that the person:

(1) accepts the determination and recommended penalty; or

(2) requests a hearing on the occurrence of the violation, the amount of the penalty, or both.

(e) If a person does not respond to the department's notice within 20 calendar days after receiving the notice, the department will issue an order approving the determination by default.

(f) Hearings will be held at the State Office of Administrative Hearings and will be conducted under Government Code, Chapter 2001.

Utah

Utah Code Annotated
Title 58. Occupations and Professions
Chapter 37C. Utah Controlled Substance Precursor Act
§ 58-37c-3. Definitions

In addition to the definitions in Section 58-1-102, as used in this chapter:

…

(10) “Retail distributor” means a grocery store, general merchandise store, drug store, or other entity or person whose activities as a distributor are limited almost exclusively to sales for personal use:

(a) in both number of sales and volume of sales; and

(b) either directly to walk-in customers or in face-to-face transactions by direct sales.

…

Utah Code Annotated
Title 58. Occupations and Professions
Chapter 37C. Utah Controlled Substance Precursor Act
§ 58-37c-20.5. Pseudoephedrine products--Limitations on retail sale

(1) As used in this section:

(a) “Mobile retail vendor” means a person or entity that sells product at retail from a stand that is intended to be temporary, or that is capable of being moved from one location to another, whether the stand is located within or on the premises of a fixed facility or is located on unimproved real estate; and

(b) “Product” means any product, mixture, or preparation, or any combination of products that contain ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or isomers, or salts of optical isomers, or a combination of any of these substances.

…

(4) A retail distributor or a mobile retail vendor may not distribute or sell any product, unless the retail distributor or mobile retail vendor:

(a) stores the product in an area not accessible to customers prior to the sale, which area may include a locked cabinet to display the product in an area accessible to customers, if the locked cabinet may be opened only by the retail distributor or mobile retail vendor or its employees;

…

(8) This section does not apply to any quantity of product possessed by:

(a) a physician, pharmacist, veterinarian, retail distributor, wholesaler, manufacturer, warehouseman, or common carrier, or any agent of these persons, who possess the product in the regular course of lawful business activities; or

(b) a person who possesses the product pursuant to a valid prescription as defined in Section 58-37-2.

(9) This section does not apply to dietary supplements, herbs, or other natural products, including concentrates or extracts, which:

(a) are not otherwise prohibited by law; and

(b) may contain naturally occurring ephedrine, ephedrine alkaloids, or pseudoephedrine, or their salts, isomers, or salts of isomers, or a combination of these substances, that:

(i) are contained in a matrix of organic material; and

(ii) do not exceed 15% of the total weight of the natural product.

(10) This section does not apply to an individual sales transaction in which the purchaser purchases a single package containing no more than 60 mg of pseudoephedrine.

(11)(a) A violation of this section is a class B misdemeanor, and a second or subsequent violation of this section is a class A misdemeanor.

(b) For purposes of this section, a plea of guilty or no contest to a violation of this section which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction for a violation of this section, even if the charge has been subsequently reduced or dismissed in accordance with a plea in abeyance agreement.

Vermont

Vermont Statutes Annotated
Title Eighteen. Health
Part 5. Foods and Drugs
Chapter 84. Possession and Control of Regulated Drugs
Subchapter 1. Regulated Drugs
§ 4234b. Ephedrine and pseudoephedrine

…

(b) Sale.

(1) A drug product containing ephedrine base, pseudoephedrine base, or phenylpropanolamine base shall not be distributed at retail to the general public unless it is maintained in a locked display case or behind the counter out of the public's reach.

(2)(A) A retail establishment shall not knowingly sell to a person within a calendar day any drug product or combination of drug products containing a total of more than 3.6 grams of ephedrine base, pseudoephedrine base, or phenylpropanolamine base.

(B) This subdivision shall not apply to drug products dispensed pursuant to a valid prescription.

…

Virginia

Annotated Code of Virginia
Title 18.2. Crimes and Offenses Generally
Chapter 7. Crimes Involving Health and Safety
Article 1.2. Sale of Ephedrine or Related Compounds
§ 18.2-265.6. Definitions

<Section becomes effective January 1, 2013>

As used in this article, unless the context requires a different meaning:

…

“Ephedrine or related compounds” means ephedrine and pseudoephedrine base or their salts, isomers, or salts of isomers.

“Pharmacy” means any establishment or institution from which drugs, medicines, or medicinal chemicals are dispensed or offered for sale or on which a sign is displayed bearing the words “apothecary,” “druggist,” “drugs,” “drug store,” “drug sundries,” “medicine store,” “pharmacist,” “pharmacy,” or “prescriptions filled” or any similar words intended to indicate that the practice of pharmacy is being conducted pursuant to a license issued under Chapter 33 (§ 54.1-3300 et seq.) of Title 54.1.

“Retail distributor” means an entity licensed to conduct business in the Commonwealth that offers for sale to the public at a retail outlet any nonprescription compound, mixture, or preparation containing ephedrine or related compounds.

…

Annotated Code of Virginia
Title 18.2. Crimes and Offenses Generally
Chapter 7. Crimes Involving Health and Safety
Article 1.2. Sale of Ephedrine or Related Compounds
§ 18.2-265.7. Sale of the methamphetamine precursors ephedrine or related compounds; penalty

<Section becomes effective January 1, 2013>

A. The sale of any product containing ephedrine or related compounds sold by a pharmacy or retail distributor shall be limited to no more than 3.6 grams per day and 9 grams per 30-day period per individual customer. The limits shall apply to the total amount of base ephedrine or related compounds contained in the products and not to the overall weight of the products.

…

Washington

Revised Code of Washington Annotated
Title 18. Businesses and Professions
Chapter 18.64. Pharmacists
18.64.044. Shopkeeper's registration--Penalty--Ephedrine/pseudoephedrine/phenylpropanolamine

(1) A shopkeeper registered as provided in this section may sell nonprescription drugs, if such drugs are sold in the original package of the manufacturer.

(2) Every shopkeeper not a licensed pharmacist, desiring to secure the benefits and privileges of this section, is hereby required to register as a shopkeeper through the master license system, and he or she shall pay the fee determined by the secretary for registration, and on a date to be determined by the secretary thereafter the fee determined by the secretary for renewal of the registration; and shall at all times keep said registration or the current renewal thereof conspicuously exposed in the location to which it applies. In event such shopkeeper's registration is not renewed by the master license expiration date, no renewal or new registration shall be issued except upon payment of the registration renewal fee and the master license delinquency fee under chapter 19.02 RCW. This registration fee shall not authorize the sale of legend drugs or controlled substances.

(3) The registration fees determined by the secretary under subsection (2) of this section shall not exceed the cost of registering the shopkeeper.

(4) Any shopkeeper who shall vend or sell, or offer to sell to the public any such nonprescription drug or preparation

without having registered to do so as provided in this section, shall be guilty of a misdemeanor and each sale or offer to sell shall constitute a separate offense.

(5) A shopkeeper who is not a licensed pharmacy may purchase products containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, only from a wholesaler licensed by the department under RCW 18.64.046 or from a manufacturer licensed by the department under RCW 18.64.045. The board shall issue a warning to a shopkeeper who violates this subsection, and may suspend or revoke the registration of the shopkeeper for a subsequent violation.

(6) A shopkeeper who has purchased products containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, in a suspicious transaction as defined in RCW 69.43.035, is subject to the following requirements:

(a) The shopkeeper may not sell any quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products exceed ten percent of the shopkeeper's total prior monthly sales of nonprescription drugs in March through October. In November through February, the shopkeeper may not sell any quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products exceed twenty percent of the shopkeeper's total prior monthly sales of nonprescription drugs. For purposes of this section, "monthly sales" means total dollars paid by buyers. The board may suspend or revoke the registration of a shopkeeper who violates this subsection.

(b) The shopkeeper shall maintain inventory records of the receipt and disposition of nonprescription drugs, utilizing existing inventory controls if an auditor or investigator can determine compliance with (a) of this subsection, and otherwise in the form and manner required by the board. The records must be available for inspection by the board or any law enforcement agency and must be maintained for two years. The board may suspend or revoke the registration of a shopkeeper who violates this subsection. For purposes of this subsection, "disposition" means the return of product to the wholesaler or distributor.

Revised Code of Washington Annotated
Title 18. Businesses and Professions
Chapter 18.64. Pharmacists

18.64.047. Itinerant vendor's or peddler's registration--Fee--Penalties--Ephedrine/pseudoephedrine/phenylpropanolamine

(1) Any itinerant vendor or any peddler of any nonprescription drug or preparation for the treatment of disease or injury, shall pay a registration fee determined by the secretary on a date to be determined by the secretary as provided in RCW 43.70.250 and 43.70.280. The department may issue a registration to such vendor on an approved application made to the department.

(2) Any itinerant vendor or peddler who shall vend or sell, or offer to sell to the public any such nonprescription drug or preparation without having registered to do so as provided in this section, is guilty of a misdemeanor and each sale or offer to sell shall constitute a separate offense.

(3) In event the registration fee remains unpaid on the date due, no renewal or new registration shall be issued except upon compliance with administrative procedures, administrative requirements, and fees determined as provided in RCW 43.70.250 and 43.70.280. This registration shall not authorize the sale of legend drugs or controlled substances.

(4) An itinerant vendor may purchase products containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers only from a wholesaler licensed by the department under RCW 18.64.046 or from a manufacturer licensed by the department under RCW 18.64.045. The board shall issue a warning to an itinerant vendor who violates this subsection, and may suspend or revoke the registration of the vendor for a subsequent violation.

(5) An itinerant vendor who has purchased products containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, in a suspicious transaction as defined in RCW 69.43.035, is subject to the following requirements:

(a) The itinerant vendor may not sell any quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products exceed ten percent of the vendor's total prior monthly sales of nonprescription drugs in March through October. In November through February, the vendor may not sell any quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products exceed twenty percent of the vendor's total prior monthly sales of nonprescription drugs. For purposes of this section, "monthly sales" means total dollars paid by buyers. The board may suspend or revoke the registration of an itinerant vendor who violates this subsection.

(b) The itinerant vendor shall maintain inventory records of the receipt and disposition of nonprescription drugs, utilizing existing inventory controls if an auditor or investigator can determine compliance with (a) of this subsection, and otherwise in the form and manner required by the board. The records must be available for inspection by the board or any law enforcement agency and must be maintained for two years. The board may suspend or revoke the registration of an itinerant vendor who violates this subsection. For purposes of this subsection, "disposition" means the return of product to the wholesaler or distributor.

West Virginia

Annotated Code of West Virginia
Chapter 60A. Uniform Controlled Substances Act
Article 2. Standards and Schedules
§ 60A-2-212. Schedule V

(a) Schedule V shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

…

(e) Any compound, mixture or preparation containing as its single active ingredient ephedrine, pseudoephedrine or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers except products which are for pediatric use primarily intended for administration to children under the age of twelve: *Provided*, That neither the offenses set forth in section four hundred one, article four of this chapter, nor the penalties therein, shall be applicable to ephedrine, pseudoephedrine or phenylpropanolamine which shall be subject to the provisions of article ten of this chapter.

Annotated Code of West Virginia
Chapter 60A. Uniform Controlled Substances Act
Article 3. Regulation of Manufacture, Distribution and Dispensing of Controlled Substances
§ 60A-3-308. Prescriptions

…

(d)(1) A controlled substance included in Schedule V shall not be distributed or dispensed other than for a medicinal purpose*: Provided*, That buprenorphine shall be dispensed only by prescription pursuant to subsections (a), (b) and (c) of this section: *Provided, however*, That the controlled substances included in subsection (e), section two hundred twelve, article two of this chapter shall be dispensed, sold or distributed only by a physician, in a pharmacy by a pharmacist or pharmacy technician, or health care professional.

(2) If the substance described in subsection (e), section two hundred twelve, article two of this chapter is dispensed, sold or distributed in a pharmacy:

(A) The substance shall be dispensed, sold or distributed only by a pharmacist or a pharmacy technician; and

…

Annotated Code of West Virginia
Chapter 60A. Uniform Controlled Substances Act
Article 10. Methamphetamine Laboratory Eradication Act
§ 60A-10-3. Definitions

In this article:

…

(d) "Drug product" means a pharmaceutical product that contains ephedrine, pseudoephedrine or phenylpropanolamine or a substance identified on the supplemental list provided in section seven of this article which may be sold without a prescription and which is labeled for use by a consumer in accordance with the requirements of the laws and rules of this state and the federal government.

…

(e) "Ephedrine" means ephedrine, its salts or optical isomers or salts of optical isomers.

…

(j) "Pseudoephedrine" means pseudoephedrine, its salts, optical isomers and salts of optical isomers.

…

(l) "Pharmacist" means an individual currently licensed by this state to engage in the practice of pharmacy and pharmaceutical care as defined in subsection (t), section one-b, article five, chapter thirty of this code.

(m) "Pharmacy intern" has the same meaning as the term "intern" as set forth in section one-b, article five, chapter thirty of this code.

(n) "Pharmacy" means any drugstore, apothecary or place within this state where drugs are dispensed and sold at retail or display for sale at retail and pharmaceutical care is provided outside of this state where drugs are dispensed and pharmaceutical care is provided to residents of this state.

(o) "Pharmacy counter" means an area in the pharmacy restricted to the public where controlled substances are stored and housed and where controlled substances may only be sold, transferred or dispensed by a pharmacist, pharmacy intern or pharmacy technician.

(p) "Pharmacy technician" means a registered technician who meets the requirements for registration as set forth in article five, chapter thirty of this code.

…

Annotated Code of West Virginia
Chapter 60A. Uniform Controlled Substances Act
Article 10. Methamphetamine Laboratory Eradication Act
§ 60A-10-4. Purchase, receipt, acquisition and possession of substances to be used as precursor to manufacture of methamphetamine or another controlled substance; offenses; exceptions; penalties

…

(e)(1) Any pharmacy, wholesaler, manufacturer or distributor of drug products containing ephedrine,

pseudoephedrine, phenylpropanolamine, their salts or optical isomers or salts of optical isomers or other designated precursor shall obtain a registration annually from the State Board of Pharmacy as described in section six of this article. Any such pharmacy, wholesaler, manufacturer or distributor shall keep complete records of all sales and transactions as provided in section eight of this article. The records shall be gathered and maintained pursuant to legislative rule promulgated by the Board of Pharmacy.

(2) Any drug products possessed without a registration as provided in this section are subject to forfeiture upon conviction for a violation of this section.

(3) In addition to any administrative penalties provided by law, any violation of this subsection is a misdemeanor, punishable upon conviction by a fine in an amount not more than $10,000.

Annotated Code of West Virginia
Chapter 60A. Uniform Controlled Substances Act
Article 10. Methamphetamine Laboratory Eradication Act
§ 60A-10-5. Restrictions on the sale, transfer or delivery of certain drug products; penalties

(a) No pharmacy or individual may display, offer for sale or place a drug product containing ephedrine, pseudoephedrine or phenylpropanolamine or other designated precursor where the public may freely access the drug product. All such drug products or designated precursors shall be placed behind a pharmacy counter where access is restricted to a pharmacist, a pharmacy intern, a pharmacy technician or other pharmacy employee.

…

Annotated Code of West Virginia
Chapter 60A. Uniform Controlled Substances Act
Article 10. Methamphetamine Laboratory Eradication Act
§ 60A-10-6. Registration to sell, manufacture or distribute products; rule-making authority

The State Board of Pharmacy shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code to require that every wholesaler, manufacturer or distributor of any drug product containing as their single active ingredient ephedrine or pseudoephedrine or a substance identified on the supplemental list provided for in section seven of this article shall obtain a registration and permit issued by the State Board of Pharmacy to sell, distribute or transfer the product containing as their single active ingredient ephedrine, pseudoephedrine or phenylpropanolamine.

West Virginia Code of State Rules
Title 15. West Virginia Board of Pharmacy
Legislative Rule (Ser. 11)
Series 11. Ephedrine and Pseudoephedrine Control
§ 15-11-2. Definitions.

…

2.2. “Schedule V pseudoephedrine products” means any compound, mixture or preparation containing as its single active ingredient ephedrine, pseudoephedrine or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers, including any drug products added to the supplemental list pursuant to W. Va. Code § 60A-10-7, except products which are for pediatric use primarily intended for administration to children under the age of twelve.

2.3. The following products have been added to the supplemental list pursuant to W. Va. Code § 60A-10-7.

(a) products that contain pseudoephedrine and tripolidine; and

(b) products that contain pseudoephedrine and loratadine.

West Virginia Code of State Rules
Title 15. West Virginia Board of Pharmacy
Legislative Rule (Ser. 11)
Series 11. Ephedrine and Pseudoephedrine Control
§ 15-11-3. Pharmacy Requirements.

3.1. Schedule V pseudoephedrine products may be sold, delivered, or provided only in licensed pharmacies by a pharmacist or registered pharmacy technician and may not be sold, delivered, or provided to any person who is under the age of eighteen.

…

Wisconsin

Wisconsin Statutes Annotated
Controlled Substances (Ch. 961)
Chapter 961. Uniform Controlled Substances Act
Subchapter I. Definitions
961.01. Definitions

As used in this chapter:

…

(12t) "Liquid-filled pseudoephedrine gelcap" means a soft, liquid-filled gelatin capsule that is intended to be sold at retail and that contains pseudoephedrine or any of its salts, isomers, or salts of isomers.

…

(20c) "Pseudoephedrine product" means a material, compound, mixture, or preparation containing any quantity of pseudoephedrine or any of its salts, isomers, or salts of isomers but does not include such a product if any of the following applies:

(a) The product is a pseudoephedrine liquid or a liquid-filled pseudoephedrine gelcap. This paragraph does not apply if the controlled substances board has determined, by rule, that the product can be readily used in the manufacture of methamphetamine.

(b) The controlled substances board has determined, by rule, that the product cannot be readily used in the manufacture of methamphetamine.

(20e) "Pseudoephedrine liquid" means a product that is intended to be sold at retail, that is a liquid at room temperature, and that contains pseudoephedrine or any of its salts, isomers, or salts of isomers.

…

Wisconsin Statutes Annotated
Controlled Substances (Ch. 961)
Chapter 961. Uniform Controlled Substances Act
Subchapter II. Standards and Schedules
961.22. Schedule V

Unless specifically excepted by state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in schedule V:

…

(2m) Pseudoephedrine. Pseudoephedrine or any of its salts, isomers, or salts of isomers.

…

Wisconsin Statutes Annotated
Controlled Substances (Ch. 961)
Chapter 961. Uniform Controlled Substances Act
Subchapter II. Standards and Schedules
961.23. Dispensing of schedule V substances

The dispensing of schedule V substances is subject to the following conditions:

…

(2) They may be sold at retail only by a registered pharmacist or, if the substance is a pseudoephedrine product, by a person who is working under the direction of a registered pharmacist when sold in a retail establishment.

…

Wisconsin Statutes Annotated
Controlled Substances (Ch. 961)
Chapter 961. Uniform Controlled Substances Act
Subchapter IV. Offenses and Penalties
961.452. Defenses in certain schedule V prosecutions

(1) A person who proves all of the following by a preponderance of the evidence has a defense to prosecution under s. 961.41(1)(j) that is based on the person's violation of a condition specified in s. 961.23 with respect to the person's distribution or delivery of a pseudoephedrine product:

(a) The person did not knowingly or recklessly violate the condition under s. 961.23.

(b) The person reported his or her own violation of the condition under s. 961.23 to a law enforcement officer in the county or municipality in which the violation occurred within 30 days after the violation.

(2) A seller who proves all of the following by a preponderance of the evidence has a defense to prosecution under s. 961.41(1)(j) that is based on the person's violation of a condition specified in s. 961.23 with respect to the person's distribution or delivery of a pseudoephedrine product:

(a) The person did not knowingly or recklessly violate the condition under s. 961.23.

(b) The acts or omissions constituting the violation of the condition under s. 961.23 were the acts or omissions of one or more of the person's employees.

(c) The person provided training to each of those employees regarding the restrictions imposed under s. 961.23 on the delivery of pseudoephedrine products.

…

Wyoming

Wyoming Statutes Annotated
Title 35. Public Health and Safety

Chapter 7. Food and Drugs
Article 10. Controlled Substances
Article IX

§ 35-7-1059. Unlawful clandestine laboratory operations; methamphetamine precursors; presumptively illegal amount; methamphetamine precursor sales limitations; registration requirements; reports; penalties

…

(e) Except as provided in this subsection, no person shall possess a drug product containing more than fifteen (15) grams of ephedrine, pseudoephedrine or phenylpropanolamine, or their salts, isomers or salts of isomers. This subsection shall not apply to the following persons who are lawfully possessing drug products in the course of legitimate business:

(i) A retail distributor or wholesaler of drug products registered with the board;

…

(iv) A pharmacist licensed by the board;

(v) A licensed health care professional possessing the drug products in the course of practicing his profession;

…

(m) A resident or nonresident retailer, manufacturer or wholesaler who distributes ephedrine, pseudoephedrine or phenylpropanolamine, or their salts, isomers or salts of isomers in Wyoming shall:

(i) Register with the board by submitting an application on a form prescribed by the board and pay a registration fee of twenty-five dollars ($25.00). Where the retailer, manufacturer or wholesaler distributions are conducted at more than one (1) location, each location shall be separately registered. Except as provided in subsection (n) of this section, those facilities registered with the board under W.S. 35-7-1024 on July 1, 2005, shall not be required to register under this section;

(ii) Notify the board of the occurrence of any of the following:

(A) The permanent closing of the retailer, manufacturer or wholesaler outlet;

(B) A change in ownership, name, management or location.

(iii) Be subject to inspection by the board. Inspections shall be conducted during normal business hours and shall be limited to the following:

(A) For retail distribution, inspection of the method of display and sale of any drug products covered by this section;

(B) For manufacturer or wholesaler distribution, inspection of the purchase and sale records of any drug products covered by this section.

(iv) Display the registration issued by the board in a conspicuous location in the place of business;

…

(n) A registration issued under this section shall be renewed annually, on or before September 30, by submitting a

renewal application supplied by the board and paying the renewal fee of twenty-five dollars ($25.00). Renewal applications postmarked after September 30 shall be subject to a late fee of fifty dollars ($50.00) which shall be in addition to the renewal fee.

(o) The board may revoke, suspend or assess an administrative penalty for violations of subsection (m) of this section not to exceed one hundred dollars ($100.00) for a first offense, five hundred dollars ($500.00) for a second offense within two (2) years and one thousand dollars ($1,000.00) for a third offense within three (3) years. Any administrative penalty assessed shall be paid to the board who shall remit the monies to the county treasurer to the credit of the public school fund of the county in which the violation occurred.

(p) For purposes of this section, "methamphetamine precursor drug" means any product that contains ephedrine, pseudoephedrine or phenylpropanolamine or liquid products with ephedrine or pseudoephedrine as the sole active ingredient and may be marketed or distributed lawfully in the United States under the Federal Food, Drug and Cosmetic Act as a nonprescription drug.