

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

SB 1567

Introduced by
Senators O'Halleran, Aboud, Aguirre, Allen; Representative Mason: Senator
Arzberger; Representatives Burns J, Hershberger, Konopnicki, Tobin

AN ACT

**AMENDING SECTION 32-1971, ARIZONA REVISED STATUTES; AMENDING TITLE 32,
CHAPTER 18, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-1973;
RELATING TO THE STATE BOARD OF PHARMACY.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-1971, Arizona Revised Statutes, is amended to
3 read:

4 32-1971. Pseudoephedrine products; location; civil penalty;
5 definition

6 A. BEGINNING NOVEMBER 1, 2007, ONLY a PHARMACY permittee ~~under this~~
7 ~~chapter~~ OR A NONPRESCRIPTION DRUG PERMITTEE shall OFFER FOR SALE AT RETAIL
8 PSEUDOEPHEDRINE PRODUCTS TO THE PUBLIC. A PHARMACY PERMITTEE OR A
9 NONPRESCRIPTION DRUG PERMITTEE MUST keep ALL products ~~in which~~ THAT CONTAIN
10 pseudoephedrine ~~is the single active ingredient~~ behind a ~~store~~ counter or in
11 a locked facility that is inaccessible to customers without the assistance of
12 the permittee or an employee of the permittee, ~~except that this restriction~~
13 ~~does not apply to liquid, liquid capsule or gel capsule forms of these~~
14 ~~products.~~

15 B. PRODUCT PACKAGING THAT LISTS PSEUDOEPHEDRINE AS AN ACTIVE
16 INGREDIENT IS PRIMA FACIE EVIDENCE THAT THE PRODUCT CONTAINS PSEUDOEPHEDRINE.

17 C. A PHARMACY PERMITTEE OR A NONPRESCRIPTION DRUG PERMITTEE WHO
18 VIOLATES THIS SECTION IS SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN
19 TWENTY-FIVE THOUSAND DOLLARS. THIS SECTION MAY BE ENFORCED BY THE ATTORNEY
20 GENERAL OR BY THE COUNTY ATTORNEY IN THE COUNTY IN WHICH THE VIOLATION
21 OCCURRED. ENFORCEMENT ACTION BY THE ATTORNEY GENERAL OR A COUNTY ATTORNEY
22 UNDER THIS SECTION DOES NOT AFFECT THE BOARD'S ABILITY TO PURSUE DISCIPLINARY
23 ACTION AGAINST A PERMITTEE.

24 D. CIVIL PENALTIES COLLECTED UNDER THIS SECTION BY THE ATTORNEY
25 GENERAL SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE
26 ADDICTION REDUCTION AND RECOVERY FUND ESTABLISHED BY SECTION 36-2007. CIVIL
27 PENALTIES COLLECTED UNDER THIS SECTION BY A COUNTY ATTORNEY SHALL BE
28 TRANSFERRED TO THE COUNTY HEALTH DEPARTMENT.

29 E. FOR THE PURPOSES OF THIS SECTION, "PSEUDOEPHEDRINE" MEANS
30 PSEUDOEPHEDRINE AND ITS SALTS OR OPTICAL ISOMERS OR SALTS OF ITS OPTICAL
31 ISOMERS.

32 Sec. 2. Title 32, chapter 18, article 3, Arizona Revised Statutes, is
33 amended by adding section 32-1973, to read:

34 32-1973. Pseudoephedrine; sales; logs; civil penalty;
35 definitions

36 A. BEGINNING NOVEMBER 1, 2007, ANY COMPOUND, MIXTURE OR PREPARATION
37 THAT CONTAINS ANY DETECTABLE QUANTITY OF PSEUDOEPHEDRINE MUST BE DISPENSED,
38 SOLD OR DISTRIBUTED ONLY BY A PERMITTEE OR A PERMITTEE'S EMPLOYEE.

39 B. A PERMITTEE OR PERMITTEE'S EMPLOYEE SHALL NOT DISPENSE, SELL OR
40 DISTRIBUTE TO A PERSON MORE THAN NINE GRAMS OF PSEUDOEPHEDRINE WITHIN A
41 THIRTY DAY PERIOD OR MORE THAN 3.6 GRAMS IN ONE DAY. THIS SUBSECTION DOES
42 NOT APPLY TO ANY QUANTITY THAT IS DISPENSED PURSUANT TO A VALID PRESCRIPTION
43 ORDER.

44 C. AT THE TIME OF MAKING A PURCHASE, A PERSON WHO PURCHASES
45 PSEUDOEPHEDRINE MUST PROVIDE THE PERMITTEE OR PERMITTEE'S EMPLOYEE WITH AN

1 IDENTIFICATION DOCUMENT THAT INCLUDES THE PERSON'S DATE OF BIRTH AND THE
2 PERSON'S PHOTOGRAPH AND THAT IS ISSUED BY A STATE OR THE FEDERAL GOVERNMENT
3 OR THAT IS AUTHORIZED TO BE USED AS IDENTIFICATION TO PURCHASE
4 PSEUDOEPHEDRINE UNDER THE COMBAT METHAMPHETAMINE EPIDEMIC ACT OF 2005.

5 D. A PERSON WHO PURCHASES PSEUDOEPHEDRINE MUST ENTER INTO A WRITTEN OR
6 ELECTRONIC LOG THE PURCHASER'S NAME AND ADDRESS AND THE TIME AND DATE OF THE
7 TRANSACTION AND MUST SIGN THE LOG. A PERMITTEE OR A PERMITTEE'S EMPLOYEE
8 MUST ENTER INTO THE LOG THE TYPE OF IDENTIFICATION PROVIDED PURSUANT TO
9 SUBSECTION C OF THIS SECTION, THE NAME OF THE PRODUCT AND THE AMOUNT OF
10 PSEUDOEPHEDRINE PURCHASED. THE PERMITTEE OR EMPLOYEE MUST VERIFY THAT THE
11 NAME ENTERED INTO THE LOG CORRESPONDS TO THE NAME PROVIDED ON THE
12 IDENTIFICATION AND THAT THE DATE AND TIME ENTERED ARE CORRECT. THIS
13 SUBSECTION DOES NOT APPLY TO ANY PURCHASE OF A SINGLE SALES PACKAGE IF THAT
14 PACKAGE CONTAINS SIXTY MILLIGRAMS OF PSEUDOEPHEDRINE OR LESS.

15 E. THE PERMITTEE AND THE PERMITTEE'S EMPLOYEE MUST MAINTAIN THE LOG IN
16 A MANNER THAT DOES NOT DISCLOSE THE IDENTITY OF THE PURCHASER TO ANY OTHER
17 PERSON EXCEPT TO THE PERMITTEE, AN EMPLOYEE OF THE PERMITTEE, THE BOARD OR A
18 LAW ENFORCEMENT OFFICER. THE PERMITTEE MUST STORE THE LOG FOR AT LEAST TWO
19 YEARS AND, IF REQUIRED BY LOCAL ORDINANCE, MUST SUBMIT A COPY OF THE LOG TO
20 LAW ENFORCEMENT. A LOG MAINTAINED PURSUANT TO THIS SUBSECTION IS AVAILABLE
21 FOR INSPECTION AND COPYING BY THE BOARD OR LAW ENFORCEMENT OFFICERS AT ANY
22 TIME DURING BUSINESS HOURS.

23 F. THE PERMITTEE MUST DISPOSE OF A WRITTEN OR ELECTRONIC LOG IN A
24 MANNER THAT ENSURES THE CONTINUED CONFIDENTIALITY OF INFORMATION IN THE LOG.

25 G. A PERMITTEE WHO VIOLATES THIS SECTION IS SUBJECT TO A CIVIL PENALTY
26 OF NOT MORE THAN TWENTY-FIVE THOUSAND DOLLARS. THIS SECTION MAY BE ENFORCED
27 BY EITHER THE ATTORNEY GENERAL OR THE COUNTY ATTORNEY IN THE COUNTY IN WHICH
28 THE VIOLATION OCCURRED. ENFORCEMENT ACTION BY THE ATTORNEY GENERAL OR A
29 COUNTY ATTORNEY UNDER THIS SECTION DOES NOT AFFECT THE BOARD'S ABILITY TO
30 PURSUE DISCIPLINARY ACTION AGAINST A PERMITTEE.

31 H. CIVIL PENALTIES COLLECTED UNDER THIS SECTION BY THE ATTORNEY
32 GENERAL SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE
33 ADDICTION REDUCTION AND RECOVERY FUND ESTABLISHED BY SECTION 36-2007. CIVIL
34 PENALTIES COLLECTED UNDER THIS SECTION BY A COUNTY ATTORNEY SHALL BE
35 TRANSFERRED TO THE COUNTY HEALTH DEPARTMENT.

36 I. THE BOARD MAY APPLY FOR GRANTS AND ACCEPT GIFTS, GRANTS OR
37 DONATIONS TO ASSIST IN DEVELOPING AND MAINTAINING A STATEWIDE COMPUTERIZED
38 SYSTEM TO TRACK PSEUDOEPHEDRINE SALES.

39 J. PRODUCT PACKAGING THAT LISTS PSEUDOEPHEDRINE AS AN ACTIVE
40 INGREDIENT IS PRIMA FACIE EVIDENCE THAT THE PRODUCT CONTAINS PSEUDOEPHEDRINE.

41 K. FOR THE PURPOSES OF THIS SECTION:

42 1. "PERMITTEE" MEANS A PHARMACY PERMITTEE OR A NONPRESCRIPTION DRUG
43 PERMITTEE.

44 2. "PSEUDOEPHEDRINE" MEANS PSEUDOEPHEDRINE AND ITS SALTS OR OPTICAL
45 ISOMERS OR SALTS OF ITS OPTICAL ISOMERS.