

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 12
Committee Substitute Favorable 6/8/11
Senate Rules and Operations of the Senate Committee Substitute Adopted 6/15/11

Short Title: Stop Methamphetamine Labs. (Public)

Sponsors:

Referred to:

January 31, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO INCREASE THE REGULATION ON PSEUDOEPHEDRINE PRODUCTS TO
3 CURTAIL METHAMPHETAMINE PRODUCTION AND TO REDUCE COSTS TO
4 LOCAL GOVERNMENTS FOR LAB CLEANUP COSTS, AND TO STUDY THE
5 EFFICACY OF ELECTRONIC RECORD KEEPING WITH A REPORT TO THE 2013
6 GENERAL ASSEMBLY.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** It is the intent and purpose of this act to continue efforts begun with
9 the Methamphetamine Lab Prevention Act of 2005 to regulate the sale of pseudoephedrine
10 products that are used to manufacture methamphetamine. The use of electronic tracking of
11 methamphetamine sales is being used in several states, including those bordering this State.
12 Other states, which at the time of this act include Oregon and Mississippi, have seen a
13 reduction in methamphetamine labs by designating pseudoephedrine and like products as
14 Schedule III controlled substances, thereby requiring a prescription to obtain pseudoephedrine
15 products. A study should be undertaken to evaluate the efficacy of this act in addressing the
16 production of methamphetamine and to determine whether more stringent methods for the
17 curtailment of methamphetamine production should be allowed to take effect.

18 **SECTION 2.** Article 5D of Chapter 90 of the General Statutes is amended by
19 adding a new section to read:

20 "**§ 90-113.52A. Electronic record keeping.**

21 (a) A retailer shall, before completing a sale of a product containing a pseudoephedrine
22 product, electronically submit the required information to the National Precursor Log Exchange
23 (NPLEx) administered by the National Association of Drug Diversion Investigators (NADDI),
24 provided that the NPLEx system is available to retailers in the State without a charge for
25 accessing the system and the retailer has Internet access. The seller shall not complete the sale
26 if the system generates a stop alert. Absent negligence, wantonness, recklessness, or deliberate
27 misconduct, any retailer utilizing the electronic sales tracking system in accordance with this
28 subsection shall not be civilly liable as a result of any act or omission in carrying out the duties
29 required by this subsection and shall be immune from liability to any third party unless the
30 retailer has violated any provision of this subsection in relation to a claim brought for such
31 violation.

32 (b) If a pharmacy selling a product containing a pseudoephedrine product experiences
33 mechanical or electronic failure of the electronic sales tracking system and is unable to comply
34 with the electronic sales tracking requirement, the pharmacy or retail establishment shall record



1 that the sale was made without submission to the NPLeX system in the record of disposition
2 required under G.S. 90-113.52.

3 (c) The NADDI shall forward North Carolina transaction records in NPLeX to the State
4 Bureau of Investigation weekly and provide real-time access to NPLeX information through the
5 NPLeX online portal to law enforcement in the State as authorized by the SBI, provided that
6 the SBI executes a memorandum of understanding with NADDI governing access.

7 (d) This system shall be capable of generating a stop sale alert, which shall be a
8 notification that completion of the sale would result in the seller or purchaser violating the
9 quantity limits set forth in G.S. 90-113.52. The system shall contain an override function that
10 may be used by a dispenser of a pseudoephedrine product who has a reasonable fear of
11 imminent bodily harm if the dispenser does not complete a sale. Each instance in which the
12 override function is utilized shall be logged by the system."

13 **SECTION 3.** G.S. 90-113.56 reads as rewritten:

14 "**§ 90-113.56. Penalties.**

15 (a) If a retailer willfully and knowingly violates the provisions of G.S. 90-113.52,
16 90-113.52A, 90-113.53, or 90-113.54, the retailer shall be guilty of a Class A1 misdemeanor
17 for the first offense and a Class I felony for a second or subsequent offense. A retailer
18 convicted of a third offense occurring on the premises of a single establishment shall be
19 prohibited from making pseudoephedrine products available for sale at that establishment.

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

25 (c) A retailer who fails to train employees in accordance with G.S. 90-113.55,
26 adequately supervise employees in transactions involving pseudoephedrine products, or
27 reasonably discipline employees for violations of this Article shall be fined up to five hundred
28 dollars (\$500.00) for the first violation, up to seven hundred fifty dollars (\$750.00) for the
29 second violation, and up to one thousand dollars (\$1,000) for a third or subsequent violation of
30 this section."

31 **SECTION 4.** Beginning with the 2011 calendar year, the State Bureau of
32 Investigation shall determine the number of methamphetamine laboratories discovered in the
33 State each calendar year and report its findings to the Legislative Commission on
34 Methamphetamine Abuse by March 1, 2012, for the 2011 calendar year and each March 1
35 thereafter for the preceding calendar year. The State Bureau of Investigation shall participate in
36 the High Intensity Drug Trafficking Areas (HIDTA) program, assist in coordinating the drug
37 control efforts between local and State law enforcement agencies, and monitor the
38 implementation and effectiveness of the electronic record-keeping requirements included in this
39 act. The SBI shall include its findings in the report to the Commission required by this section.

40 **SECTION 5.** The Legislative Commission on Methamphetamine Abuse,
41 established by the Methamphetamine Lab Prevention Act of 2005, in addition to its statutory
42 responsibilities, shall study (i) the implementation of the provisions in this act, including the
43 number of methamphetamine labs that are discovered annually and (ii) the potential costs of
44 making pseudoephedrine products Schedule III controlled substances. The Commission may
45 make an interim report to the 2012 Regular Session of the 2011 General Assembly and shall
46 make a final report with findings and recommendations to the General Assembly upon the
47 convening of the 2013 General Assembly.

48 **SECTION 6.** Sections 2 and 3 of this act become effective January 1, 2012, and
49 Section 3 applies to offenses occurring on or after that date, and the remainder of this act is
50 effective when it becomes law.