

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Committee Substitute

for

Senate Bill 668

BY SENATOR TAKUBO

[Originating in the Committee on Health and Human
Resources; reported February 14, 2024]

1 A BILL to amend and reenact §60A-10-4 of the Code of West Virginia, 1931, as amended, relating
2 to increasing the amount of ephedrine, pseudoephedrine, or phenylpropanolamine a
3 person may purchase annually.

Be it enacted by the Legislature of West Virginia:

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.**

1 (a) A pharmacy may not sell, transfer, or dispense to the same person, and a person may
2 not purchase more than three and six-tenths grams per day, more than seven and two-tenths
3 grams in a 30-day period, or more than ~~forty-eight~~ 61 and two-tenths grams annually of ephedrine,
4 pseudoephedrine, or phenylpropanolamine without a prescription. The limits shall apply to the
5 total amount of ephedrine, pseudoephedrine, and phenylpropanolamine contained in the
6 products, and not the overall weight of the products.

7 (1) Any person who knowingly purchases, receives, or otherwise possesses more than
8 seven and two-tenths grams in a 30-day period of ephedrine, pseudoephedrine, or
9 phenylpropanolamine in any form without a prescription is guilty of a misdemeanor and, upon
10 conviction thereof, shall be confined in a jail for not more than one year, fined not more than
11 \$1,000, or both fined and confined.

12 (2) Any pharmacy, wholesaler, or other entity operating the retail establishment which
13 sells, transfers, or dispenses a product in violation of this section is guilty of a misdemeanor and,
14 upon conviction thereof, shall be fined not more than \$1,000 for the first offense, or more than
15 \$10,000 for each subsequent offense.

16 (b) Notwithstanding the provisions of subdivision (1), subsection (a), of this section, any
17 person convicted of a second or subsequent violation of the provisions of said subdivision or a
18 statute or ordinance of the United States or another state which contains the same essential

19 elements is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state
20 correctional facility for not less than one nor more than five years, fined not more than \$25,000,
21 or both imprisoned and fined.

22 (c) The provisions of subsection (a) of this section shall not apply to:

23 (1) Products dispensed pursuant to a valid prescription;

24 (2) Drug products which are for pediatric use primarily intended for administration to
25 children under the age of 12;

26 (3) Drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine, their
27 salts, or optical isomers, or salts of optical isomers, or other designated precursor which have
28 been determined by the Board of Pharmacy to be in a form which is not feasible for being used
29 for the manufacture of methamphetamine; or

30 (4) Persons lawfully possessing drug products in their capacities as distributors,
31 wholesalers, manufacturers, pharmacists, pharmacy interns, pharmacy technicians, or health
32 care professionals.

33 (d) Notwithstanding any provision of this code to the contrary, any person who knowingly
34 possesses any amount of ephedrine, pseudoephedrine, phenylpropanolamine, or other
35 designated precursor with the intent to use it in the manufacture of methamphetamine or who
36 knowingly possesses a substance containing ephedrine, pseudoephedrine, or
37 phenylpropanolamine or their salts, optical isomers, or salts of optical isomers in a state or form
38 which is, or has been, altered or converted from the state or form in which these chemicals are,
39 or were, commercially distributed is guilty of a felony and, upon conviction thereof, shall be
40 imprisoned in a state correctional facility for not less than two nor more than 10 years, fined not
41 more than \$25,000, or both imprisoned and fined.

42 (e) (1) Any pharmacy, wholesaler, manufacturer, or distributor of drug products containing
43 ephedrine, pseudoephedrine, phenylpropanolamine, their salts, or optical isomers, or salts of
44 optical isomers, or other designated precursor shall obtain a registration annually from the State

45 Board of Pharmacy as described in §60A-10-6 of this code. Any such pharmacy, wholesaler,
46 manufacturer, or distributor shall keep complete records of all sales and transactions as provided
47 in §60A-10-8 of this code. The records shall be gathered and maintained pursuant to legislative
48 rule promulgated by the Board of Pharmacy.

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

51 (3) In addition to any administrative penalties provided by law, any violation of this
52 subsection is a misdemeanor, punishable upon conviction by a fine in an amount not more than
53 \$10,000.