

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5022

By Delegate Summers

[Introduced January 23, 2024; referred
to the Committee on Health and Human Resources]

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 tenth grams annually of ephedrine,
4 pseudoephedrine or phenylpropanolamine without a prescription. The limits shall apply to the total
5 amount of ephedrine, pseudoephedrine and phenylpropanolamine contained in the products, and
6 not the overall weight of the products.

7 (1) Any person who or 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, shall be confined in a jail for not more than one year, fined not more than \$1,000, or
11 both fined and confined.

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

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

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

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

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

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

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

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

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

41 (e) (1) Any pharmacy, wholesaler, manufacturer or distributor of drug products containing
42 ephedrine, pseudoephedrine, phenylpropanolamine, their salts or optical isomers or salts of
43 optical isomers or other designated precursor shall obtain a registration annually from the State
44 Board of Pharmacy as described in §60A-10-6 of this code. Any such pharmacy, wholesaler,

45 manufacturer or distributor shall keep complete records of all sales and transactions as provided in
46 section eight of this article. The records shall be gathered and maintained pursuant to legislative
47 rule promulgated by the Board of Pharmacy.

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

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

NOTE: The purpose of this bill is to increase the amount of ephedrine, pseudoephedrine or phenylpropanolamine a person may purchase annually.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.