

KENTUCKY**PRODUCTS:**

- Single entity and combination ephedrine (EPH), pseudoephedrine (PSE) and phenylpropanolamine (PPA) products

PRODUCT EXEMPTIONS:

- Products dispensed pursuant to a prescription are not subject to 9 g per 30 day sales limit (KRS 218A.1446);
- Products in liquid, liquid capsule, or gel capsule form are not subject to any sales limits or restrictions, ID or log record requirements (KRS 218A.1446);
- Any products that 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 Services are not subject to any sales limits or restrictions, ID or log record requirements. (KRS 218A.1446)

PURCHASE LIMITS:

- Consumers may not purchase more than 7.2 g of EPH, PSE or PPA in solid dose products to an individual within a 30 day period or twenty-four (24) grams within any one (1) year period provided that either of these limits (includes salts, isomers, and salts of isomers) (KRS 218A.1446);
- In addition to the thirty (30) day and the one (1) year restrictions consumers may not purchase more than 3 packages of solid dose EPH, PSE or PPA products per transaction. (KRS 218A.1446)

SALES RESTRICTIONS:

- Solid dose EPH, PSE or PPA products may only be dispensed, sold, or distributed by a registered pharmacist, a pharmacy intern, or a pharmacy technician (KRS 218A.1446);
- No sales nonprescription solid dose EPH, PSE or PPA products to persons under 18 years old. (KRS 218A.1446)

ID REQUIREMENTS:

- Purchaser must produce a government issued photo identification showing date of birth when buying solid dose EPH, PSE or PPA products. (KRS 218A.1446)

NEW ELECTRONIC TRACKING REQUIREMENTS:

- A logging or recordkeeping system shall (S.B. 8):
 - (a) Be designed to block the dispensing of any compound, mixture, or preparation containing ephedrine, pseudoephedrine, phenylpropanolamine, their salts or optical isomers, or salts of optical isomers, where the dispensing would exceed the quantity limitations

established in this section or would be prohibited under Section 2 of this Act; and

- (b) Allow unimpeded access by the Office of Drug Control Policy to any data stored in the system for statistical analysis purposes.
- Only an electronic logging or recordkeeping mechanism approved by the Office of Drug Control Policy may be utilized to meet the requirements of this subsection. No pharmacy may dispense or sell any compound, mixture, or preparation containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers unless the electronic logging or recordkeeping mechanism required by this section is provided at no cost to the pharmacy
- The Office of Drug Control Policy shall prepare and submit to the Legislative Research Commission an annual statistical report on the sale of compounds, mixtures, or preparations containing ephedrine, pseudoephedrine, phenylpropanolamine, their salts or optical isomers, or salts of optical isomers, including state and county sale amounts and numbers of individual purchasers. KRS 218A.1446
- Unless an exemption has been granted or use of an alternative electronic reporting mechanism has been approved, pharmacies that dispense EPH, PSE or PPA must comply with the KEMPT reporting requirements within 30 days of the date that a pharmacy has access to KEMPT following the effective date of the regulation (2/1/08) or must submit a request for an extension and agree to comply with the electronic reporting requirements by 6/1/08. (KRS 218A.1446(6))
- Pharmacies that use the KEMPT system are exempt from maintaining the written log (KRS 218A.1446(2)(b))
- If a pharmacy has been granted an exemption from using the KEMPT system, the pharmacy must require a purchaser to sign written log or record showing date of transaction; purchaser name, address and date of birth; and the amount and name of product purchased. Pharmacist, intern, or technician must initial each sales entry in the log. Log or record may be in written form, or an electronic record-keeping mechanism may be used provided the mechanism is approved by the Office of Drug Control Policy (KRS 218A.1446);
- Written logs must be maintained for 2 years (KRS 218A.1446);
- Each pharmacy's written log is subject to random and warrantless inspection by city, county or state law enforcement officers. (KRS 218A.1446)

(RULES THAT ARE STILL TECHNICALLY ON BOOKS) RECORDKEEPING REQUIREMENTS / KENTUCKY ELECTRONIC METHAMPHETAMINE PRECURSOR TRACKING (KEMPT):

- The following information must be entered into the KEMPT system upon the purchase or attempted purchase of EPH, PSE or PPA products: the date of transaction which is entered manually or recorded automatically by KEMPT; the

signature, name, date of birth, and address of the person making the purchase (pursuant to KRS 218A.1146 (2) (b)); and the amount and name of product dispensed. Pharmacies that use the KEMPT system are exempt from maintaining the written log of information required under KRS 218A.1446 (2)(b). (906 KAR 1:160)

- Pharmacies that is unable to secure an electronic signature when recording sales into the KEMPT system must maintain a hardcopy signature logbook containing each purchaser's signature and transaction number. (906 KAR 1:160)
- If an individual attempts to purchase an EPH, PSE or PPA product in violation of the 9g sales limit or age restriction, the KEMPT system will notify the pharmacy at the time of sale and recommend that the pharmacy deny the transaction. The KEMPT system shall provide an override feature to allow completion of the sale.
- Pharmacies may request an exemption to electronic reporting by filing an exemption request with these agencies. Any exemption may be granted upon a showing of imposition of additional cost by the pharmacy. (906 KAR 1:160)

PRODUCT PLACEMENT:

- Solid dose EPH, PSE or PPA products must be stored in a secure location, such as behind a pharmacy counter or in a locked case. (per KY Office of Drug Control Policy's memo "Meth Awareness: Addressing the Abuse" posted on the Board of Pharmacy Website, dated April 2005)

PENALTIES:

- It shall be unlawful for a person convicted after the effective date of this Act of any offense in this chapter relating to methamphetamine or any offense in KRS Chapter 250 or 514 relating to anhydrous ammonia to possess or attempt to possess any compound, mixture, or preparation containing ephedrine, pseudoephedrine, phenylpropanolamine, their salts or optical isomers, or salts of optical isomers until five (5) years have elapsed from the later of: date the person was convicted; date the person was discharged from incarceration; or date the person was released from probation, shock probation, parole, or other form of conditional discharge. KRS CHAPTER 218A NEW
- It shall be unlawful for a person convicted prior to the effective date of this Act of any offense in this chapter relating to methamphetamine or any offense in KRS Chapter 250 or 514 relating to anhydrous ammonia to possess or attempt to possess any compound, mixture, or preparation containing ephedrine, pseudoephedrine, phenylpropanolamine, their salts or optical isomers, or salts of optical isomers without a prescription until five (5) years have elapsed from the later of: date the person was convicted; date the person was discharged from incarceration; or date the person was released from probation, shock probation, parole, or other form of conditional discharge. KRS CHAPTER 218A NEW
- The Administrative Office of the Courts shall report monthly to the Office of Drug Control Policy for utilization in the electronic logging or recordkeeping

mechanism required under Section 1 of this Act the conviction of any person for any offense in this chapter relating to methamphetamine or any offense in KRS Chapter 250 or 514 relating to anhydrous ammonia, as well as the vacating, reversing, or overruling of any previously reported conviction. The information reported shall include: defendant's name; defendant's date of birth; defendant's address; defendant's identification number on a government-issued photographic identification document if available in the defendant's records readily available to the circuit clerk; any offense or offenses specified in subsection (1) of this section for which the defendant was convicted; defendant's date of conviction; defendant's sentence or, if applicable, that the conviction was reversed, overruled, or vacated. Court convicting a defendant of an offense triggering the prohibition. KRS CHAPTER 218A NEW

- Intentional failure by a pharmacist, intern, or technician to accurately record sales in the log records subject to a fine of up to \$1,000 for each violation and may be evidence of a violation of unlawful distribution of a methamphetamine precursor; however, demonstrating that omission was beyond the control of the pharmacist, intern, or technician, or inadvertent are defenses to this violation (KRS 218A.1446);
- If evidence exists that a pharmacist's, intern's, or technician's employer failed, neglected, or encouraged incorrect entry of information by improper training, lack of supervision or oversight of the maintenance of logs, or other action or inaction, the employer shall also face liability. (KRS 218A.1446)
- Any person who transfers PSE, EPH, or PPA intentionally or recklessly with knowledge of or reason to know that the product will be used to illegally manufacture methamphetamine or another controlled substance shall be liable for civil damages, including detecting, investigating or cleaning up labs, costs of prosecution, court costs, attorney's fees, consequential damages, and punitive damages. (KRS 218A.1438(3))

PREEMPTION:

- Preempts all local laws, ordinances, and regulations pertaining to the sale of PSE, EPH, or PPA. (KRS 218A.1446)

OTHER:

- The Cabinet for Health and Family Services is solely responsible for the security of the transaction information after the dispenser transmits the information and will provide a toll-free phone number for technical support to dispensers that is available 24 hours a day, 7 days a week, and for customer service available to purchasers who have an inquiry regarding a transaction from Monday – Friday, 8 am to 4:30 pm, except for on state recognized holidays. (906 KAR 1:160)
- KEMPT reports may only be provided to law enforcement enforcing laws relating to drugs; to a pharmacy; pursuant to a grand jury subpoena; or pursuant to a

court order issued by a criminal court. KEMPT reports provided to a pharmacy will not identify the dispenser / the dispensing pharmacy. (906 KAR 1:160)

- Strengthens penalties against those guilty of child endangerment relating to methamphetamine production. (KRS 218A.1446)
- Reduces PSE, EPH, and PPA possession limits from 24 g to 9 g per any thirty day period. (KRS 218A.1437(2)(a))