

**NORTH CAROLINA****PRODUCTS:**

- Single entity and combination pseudoephedrine (PSE) and ephedrine (EPH) products as well as any other products as required by the Commission for Mental Health, Developmental Disabilities and Substance Abuse Services (the Commission). (N.C.G.S.A. §90-113.51; N.C.G.S.A. §90-113.58)

**PRODUCT EXEMPTIONS:**

- Products in liquid, liquid capsule or gel capsule form are exempt from sales restrictions, sales limits, ID requirements, recordkeeping requirements, sign posting, employee training, and product placement requirements. However such products may be subject to any of these requirements if the Commission issues an order pursuant to N.C.G.S.A. 90-113.58. (N.C.G.S.A. §90-113.52; N.C.G.S.A. §90-113.53; N.C.G.S.A. § 90-113.54; N.C.G.S.A. §90-113.61);
- PSE and EPH pediatric products labeled pursuant to federal regulation primarily intended for administration to children under 12 years of age according to label instruction are exempt from sales restrictions, sales limits, ID requirements, recordkeeping requirements, sign posting, employee training and product placement requirements. However such products may be subject to any of these requirements if the Commission issues an order pursuant to N.C.G.S.A. 90-113.58. (N.C.G.S.A. §90-113.52; N.C.G.S.A. §90-113.53; N.C.G.S.A. § 90-113.54; N.C.G.S.A. §90-113.61);
- PSE and EPH products sold upon prescription may be sold to minors and also may be sold in excess of the sales limits. (N.C.G.S.A. §90-113.52; N.C.G.S.A. §90-113.53)
- Any other products exempted by the Commission (based on the whether or not substantial evidence exists that the product is or is not used to manufacture methamphetamine) are exempt from sales restrictions, sales limits, ID requirements, recordkeeping requirements, sign posting, employee training and product placement requirements. (N.C.G.S.A. §90-113.52; N.C.G.S.A. §90-113.53; N.C.G.S.A. §90-113.58; N.C.G.S.A. §90-113.61)

**SALES LIMITS:**

- Per calendar day: No person may purchase or deliver more than 3.6 grams of any nonexempt PSE or EPH product per transaction unless sold pursuant to a prescription (N.C.G.S.A. §90-113.53);
- Per 30 days: Purchases limited to totaling nine grams of any nonexempt PSE or EPH products per 30 days unless sold pursuant to a valid prescription. (N.C.G.S.A. §90-113.53)

**SALES RESTRICTIONS:**

- PSE products in the form of a tablet, caplet or gel cap may not be offered for sale at retail loose in bottles; instead, they must be sold in blister packages (N.C.G.S.A. §90-113.52);
- Unless sold upon prescription, nonexempt PSE or EPH products may not be sold to anyone under 18 years old. (N.C.G.S.A. §90-113.52)

**ID REQUIREMENTS:**

- Retailer must require every purchaser of any nonexempt PSE or EPH product to furnish photo ID. If the retailer has reasonable grounds to believe that the prospective purchaser is under 18 years old, they must require the prospective purchaser to furnish a valid, unexpired, government-issued photo identification and to provide, in print or orally, a current valid personal residential address. (N.C.G.S.A. §90-113.52)

**RECORDKEEPING REQUIREMENTS:**

- The name and address of every purchaser of a nonexempt product, the product purchased including the number of grams and the purchase date must be entered into a record of disposition on a form approved by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services. The form must be signed by every purchaser to attest to the validity of the information (N.C.G.S.A. §90-113.52);
- The record of disposition must be kept on a form approved by the Commission. The form must be constructed so that it allows for entry of the information in electronic format, including electronic signature. The form must be constructed and maintained so as to minimize disclosure of personal information to unauthorized persons (N.C.G.S.A. §90-113.52; N.C.G.S.A. §90-113.54);
- Retailers must maintain the record of disposition for a period of two years from the date of each transaction. The records must be readily available within 48 hours of the time of transaction for inspection by authorized officials. (N.C.G.S.A. §90-113.52)

**PRODUCT PLACEMENT:**

- Nonexempt single entity and combination PSE and EPH products may not be offered for retail sale by self-service.
- Nonexempt single entity and combination PSE and EPH products in tablet or caplet form must be stored and sold from behind a pharmacy counter. (N.C.G.S.A. §90-113.52)

**EMPLOYER TRAINING RESPONSIBILITIES:**

- Retailers must require that employees involved in the sale of EPH and PSE products in the form of tablets or caplets, and any other product for which the

Commission has regulated be trained in a program conducted by or approved by the Commission. (N.C.G.S.A. §90-113.55)

**PENALTIES:**

- Retailers that willfully and knowingly violate sales limits, sales restrictions, products placement, sign posting, ID or recordkeeping requirements are guilty of a class A1 misdemeanor for the first offense and a Class I felony for the second and subsequent offenses (N.C.G.S.A. §90-113.56); A retailer convicted of a third offense occurring on the premises of a single establishment shall be prohibited from selling PSE and EPH products;
- Retailers who fail to train employees or adequately supervise them in transactions involving PSE and EPH products or reasonably discipline them for violations relating to sales limits, sales restrictions, product placement, sign posting, ID or recordkeeping requirements shall be fined up to \$500 for the first violation, up to \$750 for the second violation, and up to \$1000 for third and subsequent violations (N.C.G.S.A. §90-113.56);
- Purchasers and employees who willfully and knowingly violate sales limits, sales restrictions, product placement, sign posting, ID or recordkeeping requirements are guilty of class 1 misdemeanors for the first offense, Class A1 misdemeanors for the second offense, and a class I felony for third and subsequent offenses. (N.C.G.S.A. §90-113.56)

**RETAILER LIABILITY EXEMPTION:**

- A retailer or an employee of the retailer who, reasonably and in good faith, reports to any law enforcement agency any alleged criminal activity related to the sale or purchase of PSE or EPH, or who refuses to sell products to a person reasonably believed to be ineligible to purchase is immune from civil liability for that conduct except in cases of willful misconduct. No retailer may retaliate in any manner against any employee of the establishment for a report made in good faith to any law enforcement agency concerning alleged criminal activity related to the sale or purchase of PSE or EPH products. (N.C.G.S.A. §90-113.57)

**WHOLESALE DISTRIBUTION REQUIREMENTS:**

- Every 30 calendar days, a wholesale distributor of PSE and EPH products shall submit a report electronically to the State Bureau of Investigation that accounts for all transactions involving PSE and EPH products with persons or firms located within North Carolina for the preceding month. The report shall be submitted on a form and in a manner approved by the State Bureau of Investigation. A wholesale distributor shall maintain each monthly report for a period of two years from the date of submittal to the State Bureau of Investigation. The records shall be readily available for inspection by an authorized official of a federal, State, or local law enforcement agency or the Department of Agriculture and Consumer Services. (N.C.G.S.A. §106-145.13)

**PREEMPTION:**

- All local ordinances or regulations governing the sale of OTC PSE and EPH products by a retailer are preempted.

**OTHER:**

- Retailers must post a sign or placard in a clear and conspicuous manner in the area of the premises where PSE and EPH products are sold substantially similar to the following: “North Carolina law strictly prohibits the purchase of more than two packages (3.6 grams total) of certain products containing pseudoephedrine per day, and more than three packages (9 grams total) of products containing pseudoephedrine within any 30-day period. This store will maintain a record of all sales of these products which may be accessible to law enforcement officers.” (N.C.G.S.A. §90-113.54);
- Upon enactment, the Commission may add or delete specific PSE or EPH products from meeting the requirements listed above. The Commission may also modify the specific storage, security, transaction limit, and recordkeeping requirements applicable to a particular product upon such terms and conditions they deem appropriate so long as the administrative procedures act is followed with respect to public comment. In making such determinations about various products, the Commission shall consider whether or not there is substantial evidence that the specific product would be used to manufacture methamphetamine (N.C.G.S.A. §90-113.58);
- Upon enactment, the Commission must develop training and education programs targeted for employees of establishments where PSE and EPH products are sold and shall approve such programs for implementation by retailers. The Commission may also conduct employee training programs for retail establishments (N.C.G.S.A. §90-113.58);
- Upon enactment, the State Bureau of Investigation shall study issues regarding the use of PSE and EPH products to make methamphetamine, including any data on the use of particular PSE and EPH products in that regard, pertinent law enforcement statistics, trends observed, and other relevant information, and report annually to the Commission for Mental Health, Developmental Disabilities, and Substances Abuse Services, the Legislative Commission of Methamphetamine Abuse, and the Joint Governmental Operations Subcommittee on Justice and Public Safety. The first report shall be submitted on or before November 1, 2006. (Section 8 of H.B. 248)
- Upon enactment, the Legislative Commission on Methamphetamine Abuse (“Task Force”) is established. The Task Force will evaluate how to stop the spread of methamphetamines in North Carolina, and will help to develop materials to educate the general public about the danger of methamphetamine and about North Carolina’s new law regulating PSE and EPH products. NACDS has a designated slot on the Task Force.