

NORTH DAKOTA**PRODUCTS:**

- All “scheduled listed chemical products” defined as a product containing ephedrine (EPH), pseudoephedrine (PSE) or phenylpropanolamine (PPA) ND Century Code 19-03.1-01). (ND Century Code 19-03.4-08)

PRODUCT EXEMPTIONS:

- Products that the state board of pharmacy exempts upon application of a manufacturer because the product has been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine. (ND Century Code 19-03.4-08)

SALES LIMITS:

- Sales limited to packages of no more than 2 grams of one or more scheduled listed chemical products calculated in terms of EPH base, PSE base or PPA base (ND Century Code 19-03.4-08);
- Products may only be sold in blister packs containing no more than 2 dosage units (or unit dose packs if blister pack infeasible) (ND Century Code 19-03.4-08);
- Single over the counter sales limited to no more than 2 packages containing one or more scheduled listed chemical product (ND Century Code 19-03.4-08);
- Daily sales without regard to the number of over the counter sales limited to no more than 3.6 grams of scheduled listed chemical products calculated in terms of EPH base, PSE base or PPA base (ND Century Code 19-03.4-08);
- No person may purchase more than 9 grams of EPH base, PSE base, or PPA base in scheduled listed chemical products in a 30-day period (ND Century Code 19-03.4);
- No sales to person under 18 years old. (ND Century Code 19-03.4)

RECORDKEEPING REQUIREMENTS:

- Retailers must require, obtain and maintain a written record for purchases, recording the identification of the person purchasing the scheduled listed chemical product. The identification recorded must be a document issued by a government agency, including a passport, military identification or driver’s license, that contains a photo or a description of the person and gives the date of birth. (ND Century Code 19-03.4-08);
- Retailers must maintain a written list of sales identifying the product by name, the quantity sold, the names and addresses of the purchasers, the dates and times of the sales, a unique ID number relating to the electronic record submitted into the electronic recording system, and a notice to a purchaser that the making of false statements or misrepresentations may subject the purchaser to federal and state criminal penalties. The purchaser must sign the written list of sales and

enter his or her name, address, and the date and time of the sale. (ND Century Code 19-03.4-08)

- The person making the sale must determine that the name entered by the purchaser corresponds with the name on the identification provided by the purchaser and that the date and time of the purchase is correct, and must enter the name of the product and the quantity sold on the list. (ND Century Code 19-03.4-08)
- Sales and identification records must be maintained for 3 years, and destroyed thereafter (ND Century Code 19-03.4-08);
- Records may not be used for any private or commercial purpose or be disclosed to any person except upon request of law enforcement agencies for a law enforcement purposes. (ND Century Code 19-03.4-08)

PRODUCT PLACEMENT:

- Scheduled listed chemical products must be sold from behind a counter or other barrier, or in a locked cabinet, where purchasers do not have direct access to the products before the sale is made. (ND Century Code 19-03.4-08)

ELECTRONIC RECORDING SYSTEM:

- Bureau of Criminal Investigation shall provide retailers of listed chemical products access to a real-time electronic recordkeeping system to enter into the record system any transaction required.
- Real-time electronic recordkeeping system must be maintained in a central repository and must have the capability to calculate state and federal ephedrine base, pseudoephedrine base, and phenylpropanolamine base purchase limitations.
- Electronic recordkeeping system must include a record of all the information in the written record, the unique identification number, and certification that a signature has been obtained.
- The bureau of criminal investigation may not charge a retailer a fee for the establishment of, maintenance of, or access to, the electronic recordkeeping system.

PENALTIES:

- It is a prima facie case of a violation of the age restrictions if the person making the sale did not require and obtain proof of age from the purchaser; however, it is an affirmative defense to this violation if the person making the sale required and obtained proof of age from the purchaser; the purchaser falsely represented the purchaser's proof of age by use of a false, forged, or altered document; the appearance of the purchaser was such that an ordinary and prudent person would believe the purchaser to be at least 18 years of age; and the sale was made in good faith and in reliance upon the appearance and representation of proof of age of the purchaser. Persons found guilty of willfully selling products in

violation of the age restriction are guilty of an infraction (ND Century Code 19-03.4-08);

- Persons who willfully sell more than 2 packages of scheduled listed chemical products or who willfully sell products in violation of the blister pack requirement are guilty of a class A misdemeanor (ND Century Code 19-03.4-08);
- A person may not: make a false statement or misrepresentation in the sales log or purchase more than 9 grams of EPH base, PSE base, or PPA base in scheduled listed chemical products in a 30-day period. Those who willfully do so are guilty of a class A misdemeanor (ND Century Code 19-03.4-08);
- A person who willfully violates the 3.6 gram daily sales limit, 2 package limit, product placement requirements, identification and log requirements, or age limit is guilty of an infraction. (ND Century Code 19-03.4-08)

RETAILER LIABILITY EXEMPTION:

- A retailer who in good faith releases the information in the record of identification to federal, state, or local law enforcement authorities is immune from civil liability for such release unless the release constitutes gross negligence or intentional, wanton, or willful misconduct (ND Century Code 19-03.4-08);
- A person who is the owner, operator, or manager of the retail outlet or who is the supervisor of an employee or agent who commits a violation of the laws regulating the sale of scheduled listed chemical products is not subject to the penalties of this section if the person:
 - a. Did not have prior knowledge of, participate in, or direct the employee or agent to commit, the violation of this section; and
 - b. Certifies to the attorney general that the employee or agent, at the time of initial employment and each calendar year thereafter, participated in a training program approved by the attorney general providing the employee or agent with information regarding the state and federal regulations governing the sale, possession, and packaging of such drugs products.
- (ND Century Code 19-03.4-08)

PREEMPTION:

- A political subdivision including a city or county may not enact any ordinance relating to the sale by a retail distributor or over-the-counter products with ephedrine/EPH, pseudoephedrine/PSE, or phenylpropanolamine/PPA, and any existing ordinance is void. (ND Century Code 19-03.4-08.)