

NEW HAMPSHIRE

318-B:48 Possession of Ephedrine and Pseudoephedrine; Sale.

I. No person shall knowingly and unlawfully possess a drug product containing ephedrine, pseudoephedrine, or phenylpropanolamine with the intent to use the product as a precursor to manufacture methamphetamine or another controlled substance.

II. A drug product containing ephedrine, pseudoephedrine, or phenylpropanolamine shall not be distributed at retail to the general public unless it is maintained in a locked display case or behind the counter out of the public's reach.

III.(a) A retail establishment shall not knowingly complete a sale to a person if the drug product or combination of drug products purchased would surpass a total of more than 3.6 grams within a 24-hour period or 9 grams within a 30-day period of ephedrine base, pseudoephedrine base, or phenylpropanolamine base or their isomers. The "base" form means the fraction of ephedrine, pseudoephedrine, or phenylpropanolamine present within a formulation containing a salt form of those respective drugs.

(b) This section shall not apply to drug products dispensed pursuant to a valid prescription.

318-B:49 Electronic Registry System.

I.(a) Retail establishments shall use an electronic registry system to record the sale of products made pursuant to RSA 318-B:48. The electronic registry system shall have the capacity to block a sale of nonprescription drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine that would result in a purchaser exceeding the lawful daily or monthly amount. The system shall contain an override function that may be used by an agent of a retail establishment who is dispensing the drug product and who has a reasonable fear of imminent bodily harm to his or her person or to another person if the transaction is not completed. The system shall create a record of each use of the override mechanism.

(b) The electronic registry system shall be available free of charge to the state of New Hampshire, retail establishments, and local law enforcement agencies.

(c) The electronic registry system shall operate in real time to enable communication among in-state users and users of similar systems in neighboring states.

(d) The state shall use the National Precursor Log Exchange (NPLEx) online portal or its equivalent to host New Hampshire's electronic registry system.

II.(a) Prior to completing a sale under RSA 318-B:48, a retail establishment shall require the person purchasing the drug product to present a current, valid government-issued identification document. The retail establishment shall record in the electronic registry system:

(1) The name and address of the purchaser;

(2) The name of the drug product and quantity of ephedrine, pseudoephedrine, and phenylpropanolamine sold in grams;

(3) The date and time of purchase;

(4) The form of identification presented, the issuing government entity, and the corresponding identification number; and

(5) The name of the person selling or furnishing the drug product.

(b)(1) If the retail establishment experiences an electronic or mechanical failure of the electronic registry system and is unable to comply with the electronic recording requirement, the retail establishment shall maintain a written log or an alternative electronic recordkeeping mechanism until the retail establishment is able to comply fully with this subdivision.

(2) If the region of the state where the retail establishment is located does not have broadband Internet access, the retail establishment shall maintain a written log or an alternative electronic recordkeeping mechanism until broadband Internet access becomes accessible in that region. At that time, the retail establishment shall come into compliance with this subdivision.

(c) A retail establishment shall maintain all records of drug product purchases made pursuant to this subdivision for a minimum of 2 years.

III. A retail establishment shall display a sign at the register provided by NPLEx or its equivalent to notify purchasers of drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine that:

(a) The purchase of the drug product or products shall result in the purchaser's identity being listed on a national database; and

(b) The purchaser has the right to request the transaction number for any purchase that was denied pursuant to this subdivision.

318-B:50 Penalty; Exemption.

I. Any person who violates this subdivision shall be guilty of a class A misdemeanor.

II. This subdivision shall not apply to a manufacturer that has obtained an exemption from the Attorney General of the United States under section 711(d) of the federal Combat Methamphetamine Epidemic Act of 2005.

124:2 Effective Date. This act shall take effect January 1, 2019.