

SOUTH DAKOTA**PRODUCTS:**

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

EXEMPTIONS

- Single entity and combination PSE and EPH may be sold and purchased in quantities greater than the 2 package per transaction sales limit if the sale is made pursuant to a valid prescription drug order. (SD Codified Laws §34-20D-1; SD Codified Laws §34-20D-2)
- Single entity and combination PSE, EPH, and phenylpropanolamine (PPA) may be purchased in quantities greater than the 9 grams per 30-day limit if purchased pursuant to a valid prescription drug order (SD Codified Laws §34-20D-10)

SALES LIMITS:

- No person may purchase, and no retailer may sell, in a single transaction, more than 2 packages of PSE or EPH products (SD Codified Laws §34-20D-1; SD Codified Laws §34-20D-2);
- No person may possess, receive, or otherwise acquire more than 9 grams of EPH base, PSE base, or (PPA) base in any product, mixture, or preparation within any 30-day period except upon prescription. (SD Codified Laws §34-20D-10)

ID & RECORDKEEPING REQUIREMENTS:

- Retailers must (before all EPH and PSE sales) require and make a record of the purchaser's ID (a document issued by a governmental agency containing a description or photo of the person, or both, and includes date of birth, such as a driver's license, passport, or military identification card). Retailers must maintain the record of ID, including the purchaser's name and date of birth (SD Codified Laws §34-20D-8);
- No retailer may use or maintain sales records for any private or commercial purpose or disclose the record to any person, except as authorized by law (SD Codified Laws §34-20D-8);
- Retailers must disclose sales records, upon request, to a law enforcement agency for law enforcement purposes. (SD Codified Laws §34-20D-8)

REPORTING REQUIREMENTS:

- Starting August 1, 2006, and no later than the fifth day of every month thereafter, retailers must send sales records to the Office of the Attorney General. (SD Codified Laws §34-20D-8)

PRODUCT PLACEMENT REQUIREMENTS:

- All single entity and combination PSE and EPH products must be displayed and offered for sale behind a counter where the public is not permitted or in a locked case so that a customer wanting access to the package must ask a store employee for assistance. Retailer may display or offer for sale without restriction if displayed using any type of anti-theft device system including an electronic anti-theft device system that utilizes a product tag and detection alarm which prevents the theft of the product (SD Codified Laws §34-20D-3);
- In area where products are displayed or offered for sale, retailer must post notice stating "South Dakota law prohibits the sale or purchase of more than two packages containing pseudoephedrine or ephedrine as an active ingredient unless sold or purchased with a valid prescription drug order prescribed by a practitioner as defined in § 36-11-2 with appropriate authority.." (SD Codified Laws §34-20D-5)

PENALTIES:

- Retailers or employees who violate sales limit guilty of a class I misdemeanor. (SD Codified Laws §34-20D-1)
- Possession of drug product with more than 9 grams of PSE base or EPH base creates a rebuttable presumption of intent to use the product as a precursor to methamphetamine or another controlled substance except this rebuttable presumption does not apply to a retail distribution, wholesale drug distributor or its agents, drug manufacturer or its agents, pharmacist licensed by the board of pharmacy, or a licensed health care professional possessing the products in the course of carrying out the profession. (SD Codified Laws §34-20D-10)

RETAILER LIABILITY EXEMPTION:

- Any retailer who in good faith releases sales records to a law enforcement agency for a law enforcement purpose is immune from civil liability for such release unless the release constitutes gross negligence or intentional, wanton, or willful misconduct (SD Codified Laws §34-20D-9);
- No employee or retailer is civilly liable to any injured person or the person's estate for any injury suffered, including any wrongful death, or property damage suffered due to the sale of any pseudoephedrine or ephedrine product in violation of sales limit. (SD Codified Laws §34-20D-6)

PREEMPTION:

- Prohibits counties or municipalities from establishing requirements or penalties higher or more stringent than those established by this Act. (SD Codified Laws §34-20D-7)