

VIRGINIA**PRODUCTS:**

- Single entity and combination ephedrine (EPH) and / or pseudoephedrine (PSE) base products or their salts, isomers, or salts of isomers.

PRODUCT EXEMPTIONS:

- EPH or related compounds dispensed upon valid prescription products are exempt from sales limits and restrictions, ID and record keeping requirements.
- Sale of a single package containing no more than 60 milligrams of ephedrine or related compounds to an individual is not required to be reported to the system or entered into a log provided it is an isolated sale. § 18.2-265.7.

SALES LIMITS:

- Pharmacy or retail distributor shall be limited to no more than 3.6 grams per day and 9 grams per 30-day period per individual customer. Limits shall apply to the total amount of base ephedrine or related compounds contained in the products and not to the overall weight of the products. § 18.2-265.7

ID REQUIREMENT:

- Any person purchasing, receiving, or otherwise acquiring ephedrine or related compounds shall, prior to taking possession, present photo identification issued by a government or an educational institution. § 18.2-265.7.

PRODUCT PLACEMENT:

- Ephedrine or related compounds shall only be displayed for sale behind a store counter that is not accessible to consumers or in a locked case that requires assistance by a store employee for customer access. § 18.2-265.7.

ELECTRONIC RECORD KEEPING SYSTEM:

- Pharmacy or retail distributor shall maintain a written log or electronic system with the purchaser's name and address, birth date, and signature; product name and quantity sold; and the date and time of the transaction. § 18.2-265.8.
- Pharmacy or retail distributor shall use the electronic recordkeeping and monitoring system to report all nonprescription sales of any product containing ephedrine or related compounds.
- Purchaser shall sign the record acknowledging an understanding of the applicable sales limit and that providing false statements or misrepresentations may subject the purchaser to criminal penalties under § 1001 of Title 18 of the United States Code
- Pharmacy or retail distributor shall maintain records of all sales required to be entered into the electronic system or written log for a period of two years from the date of the last entry.

- Provisions of this article do not apply to sales of ephedrine or related compounds pursuant to a valid prescription.
- Any pharmacy or retail distributor that has been granted an exemption from participation in the system pursuant to subsection B of § 18.2-265.8 shall forward to the Department every seven days by fax or electronic means a legible copy of the log required by § 18.2-265.7.

REAL TIME ELECTRONIC RECORDING AND MONITORING SYSTEM:

- Department shall enter into a memorandum of understanding with an appropriate entity to establish the Commonwealth's participation in a real-time electronic recordkeeping and monitoring system for the sale of ephedrine or related compounds.
- Memorandum of understanding shall include the following: a real-time electronic recordkeeping and monitoring system shall be provided at no charge to the Commonwealth or to participating pharmacies and retail distributors and shall be approved by the Department; system shall provide, at no charge to participating pharmacies and retail distributors, appropriate training, 24-hour online support, and a toll-free telephone help line that is staffed 24 hours a day; system shall be able to communicate in real time with similar systems operated in other states and the District of Columbia and similar systems containing information submitted by more than one state; and system shall comply with information exchange standards adopted by the *National Information Exchange Model*.
- System shall include a stop sales alert, which shall be a notification that completion of the sale would result in the seller or purchaser violating the quantity limits set forth in § 18.2-265.7, with an override function that may be used by a pharmacy or retail distributor under the circumstances set forth in § 18.2-265.9 and shall record each instance in which the override function is utilized.
- System shall provide for the recording of the following: date and time of the transaction; name, address, date of birth, and photo identification number of the purchaser; the type of identification; and the government or educational institution of issuance; number of packages purchased; the total number of grams of ephedrine or related compounds per package; and the name of the compound, mixture, or preparation containing ephedrine or related compounds; and signature of the purchaser or unique number connecting the transaction to a paper signature maintained at the retail premises. System shall ensure that submitted data is retained within the system for at least two years from the date of submission.
- Department shall provide a process for a pharmacy or retail distributor to apply for, obtain, and periodically renew an exemption from the requirement to report transactions to the electronic system if the pharmacy or retail distributor lacks

broadband access or maintains a sales volume of less than 72 grams of ephedrine or related compounds in a 30-day period.

- Superintendent of State Police shall promulgate regulations pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) for the implementation of this section. Regulations adopted under this section shall be deemed a customary police function for purposes of subdivision B 6 of § 2.2-4002.
- Pharmacy or retail distributor shall not complete the sale if the system generates a stop sales alert unless the individual distributing the ephedrine or related compound has a reasonable fear of imminent bodily harm if the sale is not completed.
- In the event of a mechanical or electronic interruption of the system, the pharmacy or retail establishment shall maintain a written log of sales of ephedrine or related compounds until the system is restored. The information written in the log shall be transmitted to the system as soon as practicable after the system is restored.
- The following entities shall not be required to participate in the electronic system and shall not be required to maintain a written log: licensed manufacturers that manufacture and lawfully distribute products in the channels of commerce; wholesalers that lawfully distribute products in the channels of commerce; inpatient pharmacies of health care facilities licensed in the Commonwealth; licensed long-term health care facilities; government-operated health care clinics or departments or centers; physicians who dispense drugs pursuant to § 54.1-3304; pharmacies located in correctional facilities; government-operated or industry-operated medical facilities serving the employees of the Commonwealth or local or federal government; purchases of ephedrine or related compounds pursuant to a valid prescription are not required to be reported to the system or entered into a written log; sale of a single package containing no more than 60 milligrams of ephedrine or related compounds to an individual is not required to be reported to the system or entered into a log provided it is an isolated sale.

CIVIL IMMUNITY:

- Absent gross negligence, recklessness, or willful misconduct, any pharmacy or retail distributor utilizing the system or written log in compliance with this article shall be immune from civil liability as a result of actions or omissions in carrying out such statutory duties. § 18.2-265.16

PENALTY:

- Any person subject to the recordkeeping and reporting requirements set forth in this article that willfully fails to report nonprescription sales of ephedrine or related compounds is guilty of a Class 1 misdemeanor. § 18.2-265.18

AUTHORITY TO ACCESS DATA, RECORDS, AND REPORTS:

- Department or other law-enforcement agency of the Commonwealth or any federal agency conducting a criminal investigation involving the manufacture of methamphetamine consistent with state or federal law may access data, records, and reports regarding the sale of ephedrine or related compounds. In addition, such information may be accessed if relevant to proceedings in any court, investigatory grand jury, or special grand jury that has been impaneled in accordance with the provisions of Chapter 13 (§ 19.2-191 et seq.) of Title 19.2.
- Superintendent of State Police shall promulgate regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the implementation of this section. Regulations adopted under this section shall be deemed a customary police function for purposes of subdivision B 6 of § 2.2-4002.

PROHIBITION ON DISCLOSURE:

- The entity operating the system pursuant to the memorandum of understanding with the Department shall not use or disclose the information collected on behalf of the Department from a pharmacy or retail distributor for any purpose other than (i) to ensure compliance with this article or the federal Combat Methamphetamine Epidemic Act of 2005, (ii) to comply with the United States government or a political subdivision thereof for law-enforcement purposes pursuant to state or federal law, or (iii) to facilitate a product recall necessary to protect public health and safety. § 18.2-265.14.
- A pharmacy or retail distributor that sells any product containing ephedrine or related compounds shall not use or disclose the information in the system or a written log for any purpose other than (i) to ensure compliance with this article or the federal Combat Methamphetamine Epidemic Act of 2005, (ii) to comply with the United States government or a political subdivision thereof for law-enforcement purposes pursuant to state or federal law, or (iii) to facilitate a product recall necessary to protect public health and safety. A pharmacy or retail distributor shall report information in the written log or electronic system to law-enforcement personnel upon request, and any pharmacy or retail distributor that in good faith releases such information to federal, state, or local law-enforcement officers, or to any person acting on behalf of such officers, shall be immune from civil liability for the release unless the release constitutes gross negligence or intentional, wanton, or willful misconduct. § 18.2-265.15