

1 AN ACT concerning the retail sale of methamphetamine
2 manufacturing chemicals.

3 **Be it enacted by the People of the State of Illinois,**
4 **represented in the General Assembly:**

5 Section 1. Short title. This Act may be cited as the
6 Methamphetamine Manufacturing Chemical Retail Sale Control
7 Act.

8 Section 5. Purpose. The purpose of this Act is to reduce
9 the harm that methamphetamine is inflicting on individuals,
10 families, communities, the economy, and the environment in
11 Illinois by making it more difficult for persons engaged in the
12 unlawful manufacture of methamphetamine to obtain
13 methamphetamine manufacturing chemicals.

14 Section 10. Definitions. In this Act:

15 "Methamphetamine manufacturing chemical" has the meaning
16 ascribed to it in subsection (z-1) of Section 102 of the
17 Illinois Controlled Substances Act.

18 "Targeted methamphetamine manufacturing chemical" and
19 "targeted medications" mean a subset of "methamphetamine
20 manufacturing chemicals". "Targeted methamphetamine
21 manufacturing chemical" means any medication in the form of a
22 tablet, capsule, caplet, or similar product that is sold over
23 the counter, without a prescription, and that contains either
24 (A) more than 15 milligrams of ephedrine or its salts, optical
25 isomers, or salts of optical isomers or (B) more than 15
26 milligrams of pseudoephedrine or its salts, optical isomers, or
27 salts of optical isomers. "Targeted methamphetamine
28 manufacturing chemical" does not include any medication in the
29 form of a liquid, liquid cap, gel cap, or other similar
30 substance, or any medication dispensed by a licensed pharmacist
31 pursuant to a valid prescription.

1 "Package" means an item packaged and marked for retail sale
2 that is not designed to be further broken down or subdivided
3 for the purpose of retail sale.

4 "Targeted package" means a package containing any amount of
5 a targeted methamphetamine manufacturing chemical.

6 "Single active ingredient targeted methamphetamine
7 manufacturing chemical" means a targeted methamphetamine
8 manufacturing chemical whose sole active ingredient is
9 ephedrine or its salts, optical isomers, or salts of optical
10 isomers; or pseudoephedrine or its salts, optical isomers, or
11 salts of optical isomers.

12 "Single active ingredient targeted package" means a
13 package containing any amount of single active ingredient
14 targeted methamphetamine manufacturing chemical.

15 "Multiple active ingredient targeted methamphetamine
16 manufacturing chemical" means a targeted methamphetamine
17 manufacturing chemical that contains at least one active
18 ingredient other than ephedrine or its salts, optical isomers,
19 or salts of optical isomers; or pseudoephedrine or its salts,
20 optical isomers, or salts of optical isomers.

21 "Multiple active ingredient targeted package" means a
22 package containing any amount of multiple active ingredient
23 targeted methamphetamine manufacturing chemical.

24 "Stock keeping unit" or "SKU" means the primary or basic
25 unit of measure assigned to an item sold by a retail
26 distributor and the smallest unit of an item that may be
27 dispensed from a retail distributor's inventory.

28 "Targeted stock keeping unit" means a stock keeping unit
29 assigned to a targeted package.

30 "Blister pack" means a unit dose package commonly
31 constructed from a formed cavity containing one or more
32 individual doses.

33 "Capsule" means a solid dosage form in which a medicinal
34 substance is enclosed and consisting of either a hard or soft
35 soluble outer shell.

36 "Customer" means a person who buys goods from a retail

1 distributor.

2 "Distribute" means to sell, give, provide or otherwise
3 transfer.

4 "Dosage unit" means an exact amount of a drug's treatment
5 pre-packaged by the manufacturer or pharmacist in standardized
6 amounts.

7 "Sales employee" means any employee who at any time (a)
8 operates a cash register at which targeted packages may be
9 sold, (b) works at or behind a pharmacy counter, (c) stocks
10 shelves containing targeted packages, or (d) trains or
11 supervises other employees who engage in any of the preceding
12 activities.

13 "Tablet" means a solid dosage form of varying weight, size,
14 and shape that may be molded or compressed and that contains a
15 medicinal substance in pure or diluted form.

16 "Single retail transaction" means a sale by a retail
17 distributor to a specific customer at a specific time.

18 "Retail distributor" means a grocery store, general
19 merchandise store, drug store, other merchandise store, or
20 other entity or person whose activities as a distributor
21 relating to drug products containing targeted methamphetamine
22 manufacturing chemicals are limited exclusively or almost
23 exclusively to sales for personal use, both in number of sales
24 and volume of sales, either directly to walk-in customers or in
25 face-to-face transactions by direct sales.

26 Section 15. Package sale restrictions.

27 (a) Any targeted methamphetamine manufacturing chemical
28 displayed or distributed by any retail distributor in Illinois
29 shall be packaged in blister packs, with each blister
30 containing not more than 2 dosage units, or when the use of
31 blister packs is technically infeasible, in unit dose packets
32 or pouches.

33 (b) Any targeted package displayed or distributed by any
34 retail distributor in Illinois shall contain no more than 3
35 grams of ephedrine or its salts, optical isomers, or salts of

1 optical isomers; or pseudoephedrine or its salts, optical
2 isomers, or salts of optical isomers.

3 (c) A retail distributor may not distribute more than 2
4 targeted packages in a single retail transaction.

5 (d) A retail distributor may not permit the purchase of any
6 targeted package by means of a self-service checkout station,
7 unless the self-service checkout station is programmed in a
8 manner that satisfies all of the following conditions for each
9 retail transaction:

10 (1) When a particular customer seeks to purchase a
11 single targeted package, the self-service checkout station
12 may allow him or her to do so without any special prompts
13 or actions.

14 (2) If the customer seeks to purchase a second targeted
15 package, the self-service checkout station shall not allow
16 him or her to purchase the second targeted package without
17 the assistance of a sales employee. If the customer then
18 seeks the assistance of a sales employee, the sales
19 employee may instruct the self-service checkout station to
20 allow the sale of the second targeted package.

21 (3) If the customer seeks to purchase a third targeted
22 package, neither the self-service checkout station nor the
23 store employee shall allow him or her to do so.

24 (e) A retail distributor, its employees, or its agents may
25 not distribute any targeted package or packages with knowledge
26 that they will be used to manufacture methamphetamine or with
27 reckless disregard of the likely use of such package or
28 packages to manufacture methamphetamine.

29 Section 20. Display and sale of single active ingredient
30 targeted packages. All single active ingredient targeted
31 packages must be displayed behind a store counter, in an area
32 not accessible to customers, or in a locked case so that a
33 customer wanting access to the packages must ask a store
34 employee for assistance.

1 Section 25. Display and sale of multiple active ingredient
2 targeted packages.

3 (a) Except as provided in subsection (b), every retail
4 distributor must treat multiple active ingredient targeted
5 packages in at least one of the following 4 ways:

6 (1) The retail distributor may display the multiple
7 active ingredient targeted packages behind a store
8 counter, in an area not accessible to customers;

9 (2) The retail distributor may display the multiple
10 active ingredient targeted packages in a locked case so
11 that a customer wanting access to the packages must ask a
12 store employee for assistance;

13 (3) The retail distributor may (i) require that any
14 customer purchasing a targeted package produce a
15 state-issued photo identification featuring a photograph
16 that reasonably resembles the customer making the
17 purchase, and (ii) record the name, issuing state, and
18 official identification number of the customer into a log
19 specially designed and designated for this purpose; or

20 (4) The retail distributor may comply with this Section
21 by adopting at least 2 of the following options:

22 (A) The retail distributor may keep multiple
23 active ingredient targeted packages within 30 feet and
24 the direct line of sight of a cash register or store
25 counter staffed by one or more store employees.

26 (B) The retail distributor may employ a reliable
27 anti-theft device that uses special package tags and
28 detection alarms designed to prevent the theft of
29 multiple active ingredient targeted packages from the
30 retail distributor's place of business.

31 (C) The retail distributor may utilize restricted
32 access shelving so that (i) only one multiple active
33 ingredient targeted package can be removed from the
34 shelf at a time, and (ii) there is a delay of 15
35 seconds or more between the time one such package is
36 removed and the time the next such package can be

1 removed from the shelf.

2 (D) The retail distributor may keep multiple
3 active ingredient targeted packages under constant
4 video surveillance in a manner that satisfies the
5 following conditions:

6 (i) A video camera must be positioned so that
7 persons examining or removing the packages are
8 visible;

9 (ii) The video camera must, at a minimum,
10 record a one-second image every 10 seconds;

11 (iii) These images must be preserved for a
12 minimum of 72 hours;

13 (iv) These images must be available to law
14 enforcement authorities immediately upon request;
15 and

16 (v) The retail distributor must post a sign in
17 a prominent manner stating that the area is under
18 constant video surveillance.

19 (b) A retail distributor that complies with this Section by
20 adopting 2 of the options listed in paragraph (4) of subsection
21 (a) of this Section must implement the first of the 2 chosen
22 options by the effective date of this Act and the second of the
23 2 chosen options within 180 days of the effective date of this
24 Act.

25 If the retail distributor's first chosen option is to
26 employ anti-theft devices as described in clause (a)(4)(B) of
27 this Section, the retailer shall ensure that special package
28 tags are affixed to at least 50 percent of the targeted
29 packages for each targeted stock keeping unit (SKU) by the
30 effective date of the Act, and that special package tags are
31 affixed to all targeted packages within 180 days of the
32 effective date of this Act. If the retail distributor's second
33 chosen option is to employ anti-theft devices as described in
34 clause (a)(4)(B) of this Section, the retail distributor shall
35 ensure that special package tags are affixed to all targeted
36 packages within 180 days of the effective date of this Act.

1 Section 30. Training and certification.

2 (a) Every retail distributor of any targeted
3 methamphetamine manufacturing chemical shall train each sales
4 employee on the topics listed on the certification form
5 described in subsection (b) of this Section. This training may
6 be conducted by a live trainer or by means of a computer-based
7 training program. This training shall be completed by the
8 effective date of this Act or within 30 days of the date that
9 each sales employee begins working for the retail distributor,
10 whichever of these 2 dates comes later.

11 (b) Immediately after training each sales employee as
12 required in subsection (a) of this Section, every retail
13 distributor of any targeted methamphetamine manufacturing
14 chemical shall have each sales employee read, sign, and date a
15 certification form containing the following language:

16 (1) My name is (insert name of employee) and I am an
17 employee of (insert name of business) at (insert street
18 address).

19 (2) I understand that in Illinois there are laws
20 governing the sale of certain over-the-counter medications
21 that contain a chemical called ephedrine or a second
22 chemical called pseudoephedrine. Medications that are
23 subject to these laws are called "targeted medications" and
24 they are sold in "targeted packages".

25 (3) I understand that "targeted medications" can be
26 used to manufacture the illegal and dangerous drug
27 methamphetamine and that methamphetamine is causing great
28 harm to individuals, families, communities, the economy,
29 and the environment throughout Illinois.

30 (4) I understand that under Illinois law, the store
31 where I work is not allowed to sell more than 2 "targeted
32 packages" in a single retail transaction. That means the
33 store cannot sell more than 2 "targeted packages" to a
34 single customer at one time.

35 (5) I understand that under Illinois law, the store

1 where I work cannot allow customers to buy "targeted
2 packages" at self-service check-out lanes, except under
3 certain conditions which have been described to me.

4 (6) I understand that under Illinois law, I cannot sell
5 "targeted medications" to a person if I know that the
6 person is going to use them to make methamphetamine.

7 (7) I understand that there are a number of ingredients
8 that are used to make the illegal drug methamphetamine,
9 including "targeted medications" sold in "targeted
10 packages". My employer has shown me a list of these various
11 ingredients, and I have reviewed the list.

12 (8) I understand that there are certain procedures that
13 I should follow if I suspect that a store customer is
14 purchasing "targeted medications" or other products for
15 the purpose of manufacturing methamphetamine. These
16 procedures have been described to me, and I understand
17 them.

18 (c) A certification form of the type described in
19 subsection (b) of this Section may be signed with a handwritten
20 signature or a reliable electronic signature that includes, a
21 unique identifier for each employee. The certification shall be
22 retained by the retail distributor for each sales employee for
23 the duration of his or her employment and for at least 30 days
24 following the end of his or her employment. Any such form shall
25 be made available for inspection and copying by any law
26 enforcement officer upon request.

27 (d) The office of the Illinois Attorney General shall make
28 available to retail distributors the list of methamphetamine
29 ingredients referred to in subsection (b) of this Section.

30 Section 35. Violations.

31 (a) An individual who violates any provision of this Act is
32 guilty of a Class A misdemeanor for a first offense and a Class
33 4 felony for a second or subsequent offense.

34 (b) Except as provided in subsections (c) and (d) of this
35 Section, the owner and the operator of a retail distributor

1 that violates any provision of this Act are guilty of a
2 business offense and subject to a fine of:

3 (1) \$500 for a first offense;

4 (2) \$1,000 for a second offense occurring at the same
5 retail location as and within 3 years of the prior offense;
6 and

7 (3) \$5,000 for a third or subsequent offense occurring
8 at the same retail location as and within 3 years of the
9 prior offenses.

10 (c) Any retail distributor that seeks to comply with
11 subsection (c) of Section 15 of this Act by installing
12 automated cash register prompts informing sales employees when
13 the two-package limit described in subsection (c) of Section 15
14 of this Act has been exceeded shall be subject to all of the
15 penalties described in subsection (b) of this Section except as
16 follows: The owner and the operator of a retail distributor
17 that violates subsection (b) or subsection (c) of Section 30 of
18 this Act are guilty of a business offense and subject to a fine
19 of:

20 (1) \$100 for a first offense;

21 (2) \$200 for a second offense occurring at the same
22 retail location as and within 3 years of the prior offense;

23 (3) \$500 for a third or subsequent offense occurring at
24 the same retail location as and within 3 years of the prior
25 offenses;

26 (4) \$1,000 for a fourth offense occurring at the same
27 retail location as and within 3 years of the prior
28 offenses; and

29 (5) \$5,000 for a fifth offense occurring at the same
30 retail location as and within 3 years of the prior
31 offenses.

32 (d) The owner and the operator of a retail distributor are
33 not liable for any violation of subsection (c) or subsection
34 (e) of Section 15 of this Act if and only if the owner and the
35 operator:

36 (1) strictly complied with subsections (a), (b), and

1 (d) of Section 15 of this Act, Sections 20 and 25 of this
2 Act, and subsection (a) of Section 30 of this Act;

3 (2) made a good-faith effort to ensure compliance with
4 subsections (c) and (e) of Section 15 of this Act;

5 (3) made a good-faith effort to comply with subsection
6 (b) and subsection (c) of Section 30 of this Act; and

7 (4) had no advance knowledge of the violation or
8 violations in question and did not act in reckless
9 disregard of the likelihood of such violation or
10 violations.

11 Section 40. Defense of Necessity. Conduct which would
12 otherwise be an offense under this Act is justifiable by reason
13 of necessity if the accused was without blame in occasioning or
14 developing the situation and reasonably believed such conduct
15 was necessary to avoid a public or private injury greater than
16 the injury which might reasonably result from his or her own
17 conduct.

18 Section 45. Immunity from civil liability. In the event
19 that any agent or employee of a retail distributor reports to
20 any law-enforcement agency any suspicious activity concerning
21 a targeted methamphetamine manufacturing chemical or other
22 methamphetamine ingredient or ingredients, the agent or
23 employee and the retail distributor itself are immune from
24 civil liability based on allegations of defamation, libel,
25 slander, false arrest, or malicious prosecution, or similar
26 allegations, except in cases of willful or wanton misconduct.

27 Section 50. Special exclusion. If the United States Drug
28 Enforcement Administration has formally certified that a
29 targeted methamphetamine manufacturing chemical has been
30 produced in a manner that prevents its use for the manufacture
31 of methamphetamine, this Act does not apply to the sale of the
32 targeted methamphetamine manufacturing chemical produced in
33 that manner.

1 Section 55. Relationship to other laws and rules. Nothing
2 in this Act shall be construed to conflict with, contradict,
3 restrict, or in any way limit the enforcement of any federal or
4 State law or rule, including but not limited to Section 216 of
5 the Illinois Controlled Substances Act.

6 Section 60. Preemption and home rule powers.

7 (a) Except as provided in subsection (b) of this Section, a
8 county or municipality, including a home rule unit, may
9 regulate the sale of targeted methamphetamine manufacturing
10 chemicals and targeted packages in a manner that is not more or
11 less restrictive than the regulation by the State under this
12 Act. This Section is a limitation under subsection (i) of
13 Section 6 of Article VII of the Illinois Constitution on the
14 concurrent exercise by home rule units of the powers and
15 functions exercised by the State.

16 (b) Any regulation of the sale of targeted methamphetamine
17 manufacturing chemicals and targeted packages by a home rule
18 unit that took effect on or before May 1, 2004, is exempt from
19 the provisions of subsection (a) of this Section.