



Rep. John E. Bradley

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1 AMENDMENT TO SENATE BILL 2244

2 AMENDMENT NO. _____. Amend Senate Bill 2244 by replacing
3 the title with the following:

4 "AN ACT concerning the retail sale of methamphetamine
5 manufacturing chemicals."; and

6 by replacing everything after the enacting clause with the
7 following:

8 "Section 1. Short title. This Act may be cited as the
9 Methamphetamine Manufacturing Chemical Retail Sale Control
10 Act.

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

17 Section 10. Definitions. In this Act:

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

21 "Targeted methamphetamine manufacturing chemical" and
22 "targeted medications" mean a subset of "methamphetamine

1 manufacturing chemicals". "Targeted methamphetamine
2 manufacturing chemical" means any medication in the form of a
3 tablet, capsule, caplet, or similar product that is sold over
4 the counter, without a prescription, and that contains either
5 (A) more than 15 milligrams of ephedrine or its salts, optical
6 isomers, or salts of optical isomers or (B) more than 15
7 milligrams of pseudoephedrine or its salts, optical isomers, or
8 salts of optical isomers. "Targeted methamphetamine
9 manufacturing chemical" does not include any medication in the
10 form of a liquid, liquid cap, gel cap, or other similar
11 substance, or any medication dispensed by a licensed pharmacist
12 pursuant to a valid prescription.

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

16 "Targeted package" means a package containing any amount of
17 a targeted methamphetamine manufacturing chemical.

18 "Single active ingredient targeted methamphetamine
19 manufacturing chemical" means a targeted methamphetamine
20 manufacturing chemical whose sole active ingredient is
21 ephedrine or its salts, optical isomers, or salts of optical
22 isomers; or pseudoephedrine or its salts, optical isomers, or
23 salts of optical isomers.

24 "Single active ingredient targeted package" means a
25 package containing any amount of single active ingredient
26 targeted methamphetamine manufacturing chemical.

27 "Multiple active ingredient targeted methamphetamine
28 manufacturing chemical" means a targeted methamphetamine
29 manufacturing chemical that contains at least one active
30 ingredient other than ephedrine or its salts, optical isomers,
31 or salts of optical isomers; or pseudoephedrine or its salts,
32 optical isomers, or salts of optical isomers.

33 "Multiple active ingredient targeted package" means a
34 package containing any amount of multiple active ingredient

1 targeted methamphetamine manufacturing chemical.

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

6 "Targeted stock keeping unit" means a stock keeping unit
7 assigned to a targeted package.

8 "Blister pack" means a unit dose package commonly
9 constructed from a formed cavity containing one or more
10 individual doses.

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

14 "Customer" means a person who buys goods from a retail
15 distributor.

16 "Distribute" means to sell, give, provide or otherwise
17 transfer.

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

21 "Sales employee" means any employee who at any time (a)
22 operates a cash register at which targeted packages may be
23 sold, (b) works at or behind a pharmacy counter, (c) stocks
24 shelves containing targeted packages, or (d) trains or
25 supervises other employees who engage in any of the preceding
26 activities.

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

30 "Single retail transaction" means a sale by a retail
31 distributor to a specific customer at a specific time.

32 "Retail distributor" means a grocery store, general
33 merchandise store, drug store, other merchandise store, or
34 other entity or person whose activities as a distributor

1 relating to drug products containing targeted methamphetamine
2 manufacturing chemicals are limited exclusively or almost
3 exclusively to sales for personal use, both in number of sales
4 and volume of sales, either directly to walk-in customers or in
5 face-to-face transactions by direct sales.

6 Section 15. Package sale restrictions.

7 (a) Any targeted methamphetamine manufacturing chemical
8 displayed or distributed by any retail distributor in Illinois
9 shall be packaged in blister packs, with each blister
10 containing not more than 2 dosage units, or when the use of
11 blister packs is technically infeasible, in unit dose packets
12 or pouches.

13 (b) Any targeted package displayed or distributed by any
14 retail distributor in Illinois shall contain no more than 3
15 grams of ephedrine or its salts, optical isomers, or salts of
16 optical isomers; or pseudoephedrine or its salts, optical
17 isomers, or salts of optical isomers.

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

20 (d) A retail distributor may not permit the purchase of any
21 targeted package by means of a self-service checkout station,
22 unless the self-service checkout station is programmed in a
23 manner that satisfies all of the following conditions for each
24 retail transaction:

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

29 (2) If the customer seeks to purchase a second targeted
30 package, the self-service checkout station shall not allow
31 him or her to purchase the second targeted package without
32 the assistance of a sales employee. If the customer then
33 seeks the assistance of a sales employee, the sales

1 employee may instruct the self-service checkout station to
2 allow the sale of the second targeted package.

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

6 (e) A retail distributor, its employees, or its agents may
7 not distribute any targeted package or packages with knowledge
8 that they will be used to manufacture methamphetamine or with
9 reckless disregard of the likely use of such package or
10 packages to manufacture methamphetamine.

11 Section 20. Display and sale of single active ingredient
12 targeted packages. All single active ingredient targeted
13 packages must be displayed behind a store counter, in an area
14 not accessible to customers, or in a locked case so that a
15 customer wanting access to the packages must ask a store
16 employee for assistance.

17 Section 25. Display and sale of multiple active ingredient
18 targeted packages.

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

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

25 (2) The retail distributor may display the multiple
26 active ingredient targeted packages in a locked case so
27 that a customer wanting access to the packages must ask a
28 store employee for assistance;

29 (3) The retail distributor may (i) require that any
30 customer purchasing a targeted package produce a
31 state-issued photo identification featuring a photograph
32 that reasonably resembles the customer making the

1 purchase, and (ii) record the name, issuing state, and
2 official identification number of the customer into a log
3 specially designed and designated for this purpose; or

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

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

10 (B) The retail distributor may employ a reliable
11 anti-theft device that uses special package tags and
12 detection alarms designed to prevent the theft of
13 multiple active ingredient targeted packages from the
14 retail distributor's place of business.

15 (C) The retail distributor may utilize restricted
16 access shelving so that (i) only one multiple active
17 ingredient targeted package can be removed from the
18 shelf at a time, and (ii) there is a delay of 15
19 seconds or more between the time one such package is
20 removed and the time the next such package can be
21 removed from the shelf.

22 (D) The retail distributor may keep multiple
23 active ingredient targeted packages under constant
24 video surveillance in a manner that satisfies the
25 following conditions:

26 (i) A video camera must be positioned so that
27 persons examining or removing the packages are
28 visible;

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

31 (iii) These images must be preserved for a
32 minimum of 72 hours;

33 (iv) These images must be available to law
34 enforcement authorities immediately upon request;

1 and

2 (v) The retail distributor must post a sign in
3 a prominent manner stating that the area is under
4 constant video surveillance.

5 (b) A retail distributor that complies with this Section by
6 adopting 2 of the options listed in paragraph (4) of subsection
7 (a) of this Section must implement the first of the 2 chosen
8 options by the effective date of this Act and the second of the
9 2 chosen options within 180 days of the effective date of this
10 Act.

11 If the retail distributor's first chosen option is to
12 employ anti-theft devices as described in clause (a)(4)(B) of
13 this Section, the retailer shall ensure that special package
14 tags are affixed to at least 50 percent of the targeted
15 packages for each targeted stock keeping unit (SKU) by the
16 effective date of the Act, and that special package tags are
17 affixed to all targeted packages within 180 days of the
18 effective date of this Act. If the retail distributor's second
19 chosen option is to employ anti-theft devices as described in
20 clause (a)(4)(b) of this Section, the retail distributor shall
21 ensure that special package tags are affixed to all targeted
22 packages within 180 days of the effective date of this Act.

23 Section 30. Training and certification.

24 (a) Every retail distributor of any targeted
25 methamphetamine manufacturing chemical shall train each sales
26 employee on the topics listed on the certification form
27 described in subsection (b) of this Section. This training may
28 be conducted by a live trainer or by means of a computer-based
29 training program. This training shall be completed by the
30 effective date of this Act or within 30 days of the date that
31 each sales employee begins working for the retail distributor,
32 whichever of these 2 dates comes later.

33 (b) Immediately after training each sales employee as

1 required in subsection (a) of this Section, every retail
2 distributor of any targeted methamphetamine manufacturing
3 chemical shall have each sales employee read, sign, and date a
4 certification form containing the following language:

5 (1) My name is (insert name of employee) and I am an
6 employee of (insert name of business) at (insert street
7 address).

8 (2) I understand that in Illinois there are laws
9 governing the sale of certain over-the-counter medications
10 that contain a chemical called ephedrine or a second
11 chemical called pseudoephedrine. Medications that are
12 subject to these laws are called "targeted medications" and
13 they are sold in "targeted packages".

14 (3) I understand that "targeted medications" can be
15 used to manufacture the illegal and dangerous drug
16 methamphetamine and that methamphetamine is causing great
17 harm to individuals, families, communities, the economy,
18 and the environment throughout Illinois.

19 (4) I understand that under Illinois law, the store
20 where I work is not allowed to sell more than 2 "targeted
21 packages" in a single retail transaction. That means the
22 store cannot sell more than 2 "targeted packages" to a
23 single customer at one time.

24 (5) I understand that under Illinois law, the store
25 where I work cannot allow customers to buy "targeted
26 packages" at self-service check-out lanes, except under
27 certain conditions which have been described to me.

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

31 (7) I understand that there are a number of ingredients
32 that are used to make the illegal drug methamphetamine,
33 including "targeted medications" sold in "targeted
34 packages." My employer has shown me a list of these various

1 ingredients, and I have reviewed the list.

2 (8) I understand that there are certain procedures that
3 I should follow if I suspect that a store customer is
4 purchasing "targeted medications" or other products for
5 the purpose of manufacturing methamphetamine. These
6 procedures have been described to me, and I understand
7 them.

8 (c) A certification form of the type described in
9 subsection (b) of this Section may be signed with a handwritten
10 signature or a reliable electronic signature that includes, a
11 unique identifier for each employee. The certification shall be
12 retained by the retail distributor for each sales employee for
13 the duration of his or her employment and for at least 30 days
14 following the end of his or her employment. Any such form shall
15 be made available for inspection and copying by any law
16 enforcement officer upon request.

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

20 Section 35. Violations.

21 (a) An individual who violates any provision of this Act is
22 guilty of a Class A misdemeanor for a first offense and a Class
23 4 felony for a second or subsequent offense.

24 (b) Except as provided in subsections (c) and (d) of this
25 Section, the owner and the operator of a retail distributor
26 that violates any provision of this Act are guilty of a
27 business offense and subject to a fine of:

28 (1) \$500 for a first offense;

29 (2) \$1,000 for a second offense occurring at the same
30 retail location as and within 3 years of the prior offense;
31 and

32 (3) \$5,000 for a third or subsequent offense occurring
33 at the same retail location as and within 3 years of the

1 prior offenses.

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

12 (1) \$100 for a first offense;

13 (2) \$200 for a second offense occurring at the same
14 retail location as and within 3 years of the prior offense;

15 (3) \$500 for a third or subsequent offense occurring at
16 the same retail location as and within 3 years of the prior
17 offenses;

18 (4) \$1,000 for a fourth offense occurring at the same
19 retail location as and within 3 years of the prior
20 offenses; and

21 (5) \$5,000 for a fifth offense occurring at the same
22 retail location as and within 3 years of the prior
23 offenses.

24 (d) The owner and the operator of a retail distributor are
25 not liable for any violation of subsection (c) or subsection
26 (e) of Section 15 of this Act if and only if the owner and the
27 operator:

28 (1) strictly complied with subsections (a), (b), and
29 (d) of Section 15 of this Act, Sections 20 and 25 of this
30 Act, and subsection (a) of Section 30 of this Act;

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

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

1 (4) had no advance knowledge of the violation or
2 violations in question and did not act in reckless
3 disregard of the likelihood of such violation or
4 violations.

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

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

21 Section 50. Special exclusion. If the United States Drug
22 Enforcement Administration has formally certified that a
23 targeted methamphetamine manufacturing chemical has been
24 produced in a manner that prevents its use for the manufacture
25 of methamphetamine, this Act does not apply to the sale of the
26 targeted methamphetamine manufacturing chemical produced in
27 that manner.

28 Section 55. Relationship to other laws and rules. Nothing
29 in this Act shall be construed to conflict with, contradict,
30 restrict, or in any way limit the enforcement of any federal or

1 State law or rule, including but not limited to Section 216 of
2 the Illinois Controlled Substances Act.

3 Section 60. Preemption and home rule powers.

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

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