

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.
Act 712 of the Regular Session

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009

A Bill

HOUSE BILL 2039

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5 By: Representative Wells
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For An Act To Be Entitled

8
9 AN ACT REGARDING SALES LIMITS FOR EPHEDRINE; AND
10 FOR OTHER PURPOSES.
11

Subtitle

12
13 AN ACT REGARDING SALES LIMITS FOR
14 EPHEDRINE.
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16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. Arkansas Code § 5-64-1103(e), concerning the penalty
20 classification of sales limits for ephedrine, is amended to read as follows:

21 (e)(1)(A) ~~Any~~ A person who violates subsections (a) or (d) of this
22 section for a first or second offense upon conviction is guilty of a Class A
23 misdemeanor and ~~may~~ also may be subject to a civil fine not to exceed five
24 thousand dollars (\$5,000).

25 (B) A person who violates subsections (a) or (d) of this
26 section for a third offense upon conviction is guilty of a Class D felony and
27 also may be subject to a civil fine not to exceed five thousand dollars
28 (\$5,000).

29 (C) A person who violates subsections (a) or (d) of this
30 section for a fourth or subsequent offense upon conviction is guilty of a
31 Class C felony and also may be subject to a civil fine not to exceed ten
32 thousand dollars (\$10,000).

33 (2) A plea of guilty or nolo contendere to or a finding of guilt
34 under a penal law of the United States or another state that is equivalent to
35 subsections (a) or (d) of this section is considered a previous offense for



1 purposes of this subsection.

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3 ~~(2)(A)~~(3)(A) The prosecuting attorney may waive any civil
4 penalty under this section if a person establishes that he or she acted in
5 good faith to prevent a violation of this section, and the violation occurred
6 despite the exercise of due diligence.

7 (B) In making this determination, the prosecuting attorney
8 may consider evidence that an employer trained employees how to sell,
9 transfer, or otherwise furnish substances specified in this subchapter in
10 accordance with applicable laws.

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12 SECTION 2. Arkansas Code § 5-64-1103(f), concerning the purchase or
13 acquisition of ephedrine, is amended to read as follows:

14 (f)(1)(A) It is unlawful for any person, other than a person or entity
15 described in § 5-64-1101(a), to knowingly purchase, acquire, or otherwise
16 receive in a single transaction:

17 (i) More than three (3) packages of one (1) or more
18 products that the person knows to contain ephedrine, pseudoephedrine, or
19 phenylpropanolamine, or their salts, isomers, or salts of isomers; or

20 (ii) Any single package of any product that the
21 person knows to contain ephedrine, pseudoephedrine, or phenylpropanolamine,
22 that contains more than ninety-six (96) pills, tablets, gelcaps, capsules, or
23 other individual units or more than three grams (3 g) of ephedrine,
24 pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of
25 isomers, or a combination of any of these substances, whichever is smaller.

26 (B) It is unlawful for any person, other than a person or
27 entity described in § 5-64-1101(a), to knowingly purchase, acquire, or
28 otherwise receive more than five grams (5 g) of ephedrine or nine grams (9 g)
29 of pseudoephedrine or phenylpropanolamine within any thirty-day period.

30 ~~(2)(A) Any A~~ Any A person who violates a ~~provision of~~ subdivisions
31 (f)(1)(A) or (B) of this section for a first or second offense upon
32 conviction is guilty of a Class A misdemeanor.

33 (B) A person who violates subdivisions (f)(1)(A) or (B) of
34 this section for a third offense upon conviction is guilty of a Class D
35 felony.

36 (C) A person who violates subdivisions (f)(1)(A) or (B) of

1 this section for a fourth or subsequent offense upon conviction is guilty of
2 a Class C felony.

3 (3) A plea of guilty or nolo contendere to or a finding of guilt
4 under a penal law of the United States or another state that is equivalent to
5 subdivisions (f)(1)(A) or (B) of this section is considered a previous
6 offense for the purposes of this subsection.

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8 **APPROVED: 3/31/2009**
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