

**Hall of the House of Representatives**  
85th General Assembly - Regular Session, 2005  
**Amendment Form**

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**Subtitle of House Bill No. 2970**

"TO REQUIRE DISCLOSURE OF CERTAIN PHARMACEUTICAL MARKETING  
PRACTICES."

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**Amendment No. 2 to House Bill No. 2970.**

Amend House Bill No. 2970 as engrossed, H4/1/05 (version: 04-01-2005 11:40):

Delete everything after the enacting clause and substitute:

"SECTION 1. Arkansas Code § 5-64-212, as amended by Act 256 of 2005 and pertaining to exemptions to Schedule V requirements, is amended to add a new subsection as follows:

(e) A wholesaler with a distribution center in Arkansas shall be exempt from Schedule V requirements for the storage and distribution of ephedrine, pseudoephedrine, and phenylpropanolamine if the wholesaler:

(1) Is engaged in interstate business with a retail distributor or wholesaler located in a state in which ephedrine, pseudoephedrine, and phenylpropanolamine may be sold legally; and

(2) Possesses a limited Schedule V license issued under § 20-64-501 et seq.

SECTION 2. Arkansas Code § 5-64-1101(a)(4) as amended by Act 256 of 2005 and pertaining to possession limitations for ephedrine and pseudoephedrine, is amended to read as follows:

(4)(A) Any manufacturer, wholesaler, or distributor licensed by the Arkansas State Board of Pharmacy who meets one (1) of the requirements in subdivision (a)(4)(B) of this section and sells, transfers, or otherwise furnishes ephedrine, pseudoephedrine, or phenylpropanolamine or their salts, optical isomers, and salts of optical isomers to:

(i) A licensed pharmacy, physician, dentist, podiatrist, veterinarian, or other healthcare professional with prescriptive authority, ~~or any;~~

(ii) Any person who possesses a sales and use tax permit issued by the department who is permitted to sell products described in § 5-64-1103(b)(1) and (2); or

(iii) A retail distributor or wholesaler located in a state in which ephedrine, pseudoephedrine, and phenylpropanolamine may be sold legally.

(B)(i) The manufacturer, wholesaler, or distributor must hold or store the substances in facilities that meet the packaging requirements of § 5-64-1005(d)(1)-(3);



(ii) The manufacturer, wholesaler, or distributor must sell, transfer, or otherwise furnish only to healthcare professionals identified in subdivisions (a)(1) and (3) of this section; or

(iii) The wholesaler or distributor:

(a) Sells, transfers, or otherwise furnishes ephedrine, pseudoephedrine, or phenylpropanolamine only to a retail distributor or wholesaler who is located in a state in which ephedrine, pseudoephedrine, and phenylpropanolamine may be sold legally; and

(b) Holds or stores ephedrine, pseudoephedrine, or phenylpropanolamine in facilities that meet the packaging requirements of § 5-64-1005(d)(1) and (2).

SECTION 3. Arkansas Code Title 20, Chapter 64, Subchapter 5, is amended to add a new section as follows:

20-64-514. Limited Schedule V license for wholesale distributors.

(a)(1) As used in this section, "ephedrine, pseudoephedrine, and phenylpropanolamine" means any product containing ephedrine, pseudoephedrine, or phenylpropanolamine or any of their salts, isomers, or salts of isomers, alone or in a mixture.

(2) "Ephedrine, pseudoephedrine, and phenylpropanolamine" does not mean:

(A) Exempt products described in § 5-64-1103(b)(1); or

(B) Any ephedrine or pseudoephedrine in liquid, liquid capsule, or liquid gel capsule form described in § 5-64-1103(b)(2).

(b) A wholesaler with a distribution center located in Arkansas who makes interstate sales of goods into a state in which ephedrine, pseudoephedrine, and phenylpropanolamine may be sold legally may apply to the Arkansas State Board of Pharmacy for a license limited to ephedrine, pseudoephedrine, and phenylpropanolamine.

(c) The board may consider the following conditions for license eligibility:

(1) That the applicant is actively engaged in the interstate sale of grocery or pharmaceutical items;

(2) That the applicant holds a List I chemical registration in good standing issued by the Drug Enforcement Administration;

(3) That the applicant's sales are not predominately ephedrine, pseudoephedrine, or phenylpropanolamine either separately or in conjunction with other items associated with the illegal manufacture of methamphetamine or other controlled substances;

(4)(A) That the applicant or the applicant's customers do not have a history of diverting, or failing to guard against the diversion of, ephedrine, pseudoephedrine, or phenylpropanolamine or other products used in manufacturing illegal drugs.

(B) The diversion history may include settlements with or without admission of liability or violation of law or rules with any federal or state authority concerning alleged violations of law or rules applicable to controlled substances or chemicals contained on List I of the Drug Enforcement Administration;

(5) That the applicant:

(A) Meets the security conditions for the storage of ephedrine, pseudoephedrine, and phenylpropanolamine as determined by the board;

(B) Has a program of effective controls against the diversion of ephedrine, pseudoephedrine, and phenylpropanolamine; and

(C) Has a system for recording and retention of records concerning the acquisition and disposition of ephedrine, pseudoephedrine, and phenylpropanolamine; and

(6) Any other factors or conditions relevant to public health and safety as determined on a case-by-case basis by the board.

(d) Each applicant shall appear before the board during a formal meeting for consideration of its application.

(e) The board shall adopt rules for the limited wholesale distribution of ephedrine, pseudoephedrine, or phenylpropanolamine by a wholesaler licensed under this section.

(f) A license issued under this section shall entitle the wholesaler to:

(1) Possess and distribute only ephedrine, pseudoephedrine, or phenylpropanolamine; and

(2) Distribute ephedrine, pseudoephedrine, or phenylpropanolamine only to customers in other states.

(g) A wholesaler licensed under this section shall not surrender possession of ephedrine, pseudoephedrine, or phenylpropanolamine to any person in this state other than a carrier for delivery to locations outside of this state.

(h)(1) The Department of Arkansas State Police may investigate any violations of this section, § 20-64-501 et seq., or board rules and may coordinate enforcement of the law or rules with the board.

(2) The Department of Arkansas State Police and the board shall exchange information gathered or received by either agency under the provisions of this section.

(3) A wholesaler licensed under this section shall report the theft or loss of any ephedrine, pseudoephedrine, or phenylpropanolamine to the board and the Department of Arkansas State Police within three (3) days after discovering the theft or loss.

(i) The provisions of § 20-64-501 et seq. and rules promulgated under § 20-64-501 that are not inconsistent with this section are applicable to a wholesaler licensed under this section."

The Amendment was read \_\_\_\_\_  
By: Representative Norton  
BBC/BBC - 04-04-2005 14:57  
BBC432

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Chief Clerk