

108TH CONGRESS
2D SESSION

H. R. 4395

To amend the Controlled Substances Act with respect to the regulation of ephedrine alkaloids, including ephedrine and pseudoephedrine.

IN THE HOUSE OF REPRESENTATIVES

MAY 19, 2004

Mr. CARSON of Oklahoma (for himself and Mr. SULLIVAN) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Controlled Substances Act with respect to the regulation of ephedrine alkaloids, including ephedrine and pseudoephedrine.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ephedrine Alkaloids
5 Regulation Act of 2004”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds as follows:

1 (1) The United States faces increasing danger
2 related to methamphetamine trafficking, production,
3 and abuse.

4 (2) Methamphetamine is a highly addictive drug
5 that can be readily made from products and precursors
6 purchased from retail stores. Step-by-step recipes
7 can easily be found on the Internet, which is a
8 factor in the dramatic increase in the number of
9 clandestine labs in recent years.

10 (3) Methamphetamine-producing clandestine
11 laboratories have been identified by the Drug Enforcement
12 Administration as a significant threat to
13 the Nation's public health and safety. The manufacture
14 of methamphetamine produces highly toxic and
15 unstable chemicals that threaten the well-being of
16 first responders, law enforcement officers, and the
17 community at-large.

18 (4) Methamphetamine production, once exclusively
19 found in West Coast States, has rapidly
20 moved eastward to the Midwest. Production can now
21 be found on the East Coast, in the States of New
22 York and Florida.

23 (5) Methamphetamine abuse is indiscriminate
24 of age, socioeconomic level, or race.

1 (6) Pseudoephedrine is a necessary precursor
2 chemical in the production of methamphetamine,
3 which prompted the Drug Enforcement Administra-
4 tion to initiate investigations regarding the chemi-
5 cal's sale and distribution.

6 (7) Efforts to reduce access to pseudoephedrine
7 by methamphetamine producers, such as blister
8 packaging and sales thresholds, have not been effec-
9 tive deterrents, and pseudoephedrine tablets remain
10 pervasive in the illicit production of methamphet-
11 amine.

12 (8) Pseudoephedrine in liquid gel and liquid
13 forms have not been found to be used in meth-
14 amphetamine production.

15 (9) As States and communities attempt to com-
16 bat and control methamphetamine through restrict-
17 ing the sale of pseudoephedrine products, it is in-
18 cumbent upon the Congress to develop a uniform
19 standard for the distribution of pseudoephedrine in
20 tablet form.

21 **SEC. 2. CONTROLLED SUBSTANCES; ADDITION OF EPHED-**
22 **RINE ALKALOIDS TO SCHEDULE V.**

23 (a) IN GENERAL.—Effective upon the expiration of
24 30 days after the date of the enactment of this Act, ephed-
25 rine alkaloids (including ephedrine and pseudoephedrine),

1 and their salts, optical isomers, and salts of optical iso-
2 mers, shall be considered to be listed in schedule V of the
3 schedules of controlled substances established under sec-
4 tion 202(c) of the Controlled Substances Act, subject to
5 subsection (b). The Attorney General shall amend part
6 1308 of title 21, Code of Federal Regulations, accordingly.

7 (b) CERTAIN FORMS OF PSEUDOEPHEDRINE.—Sub-
8 ject to the authority of the Attorney General under the
9 Controlled Substances Act to designate drugs or other
10 substances as controlled substances or listed chemicals—

11 (1) subsection (a) does not apply to
12 pseudoephedrine when contained in a drug that is in
13 liquid or gel form and is marketed or distributed
14 lawfully in the United States under the Federal
15 Food, Drug, and Cosmetic Act; and

16 (2) pseudoephedrine when so contained shall be
17 considered a listed chemical.

18 **SEC. 3. REGULATION OF TRANSACTIONS INVOLVING LIST-**
19 **ED CHEMICALS; EXEMPTION FOR CERTAIN**
20 **DOSAGE FORMS OF PSEUDOEPHEDRINE.**

21 (a) DEFINITION OF REGULATED TRANSACTION.—
22 Section 102(39)(A)(iv) of the Controlled Substances Act
23 (21 U.S.C. 802(39)(A)(iv)) is amended—

1 (1) in the matter preceding subclause (I), by
2 striking “unless—” and inserting “unless, subject to
3 clause (v)—”;

4 (2) in subclause (I), by inserting “in liquid or
5 gel form” after “pseudoephedrine” the first place
6 such term appears; and

7 (3) in subclause (II)—

8 (A) by inserting “in liquid or gel form”
9 after “pseudoephedrine” the first place such
10 term appears; and

11 (B) by striking “except that” and all that
12 follows and inserting the following: “except that
13 the threshold for any sale of products con-
14 taining pseudoephedrine products in liquid or
15 gel form, or containing phenylpropanolamine
16 products, by retail distributors or by distribu-
17 tors required to submit reports by section
18 310(b)(3) shall be 9 grams of pseudoephedrine
19 or 9 grams of phenylpropanolamine in a single
20 transaction and sold in package sizes of not
21 more than 3 grams of pseudoephedrine base or
22 3 grams of phenylpropanolamine base; or”.

23 (b) DEFINITION OF ORDINARY OVER-THE-COUNTER
24 PSEUDOEPHEDRINE OR PHENYLPROPANOLAMINE PROD-
25 UCT.—Section 102(45) of the Controlled Substances Act

1 (21 U.S.C. 802(45)) is amended in the matter preceding
2 subparagraph (A) by striking “containing
3 pseudoephedrine or phenylpropanolamine that” and in-
4 serting “containing pseudoephedrine in liquid or gel form,
5 or containing phenylpropanolamine, that”.

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