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109TH CONGRESS
1ST SESSION

H. R. 1378

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2005

Mrs. EMERSON (for herself and Mr. BERRY) 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

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A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Ephedrine Alkaloids Regulation Act of 2005''.

SEC. 2. FINDINGS.

The Congress finds as follows:

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

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

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

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

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

(6) Pseudoephedrine is a necessary precursor chemical in the production of methamphetamine, which prompted the Drug Enforcement Administration to initiate investigations regarding the chemical's sale and distribution.

(7) Efforts to reduce access to pseudoephedrine by methamphetamine producers, such as blister packaging and sales thresholds, have not been effective deterrents, and pseudoephedrine tablets remain pervasive in the illicit production of methamphetamine.

(8) Pseudoephedrine in liquid gel and liquid forms have not been found to be used in methamphetamine production.

(9) As States and communities attempt to combat and control methamphetamine through restricting the sale of pseudoephedrine products, it is incumbent upon the Congress to develop a uniform standard for the distribution of pseudoephedrine in tablet form.

SEC. 2. CONTROLLED SUBSTANCES; ADDITION OF EPHEDRINE ALKALOIDS AND PHENYLPROPANOLAMINE TO SCHEDULE V.

(a) IN GENERAL.—Effective upon the expiration of 30 days after the date of the enactment of this Act, ephed-

rine alkaloids (including ephedrine and pseudoephedrine) and phenylpropanolamine, and their salts, optical isomers, and salts of optical isomers, whether alone or in combination with other substances, shall be considered to be listed in schedule V of the schedules of controlled substances established under section 202(c) of the Controlled Substances Act, subject to subsection (b) and subject to the authority of the Attorney General under such Act to designate substances as controlled substances or listed chemicals. The Attorney General shall amend part 1308 of title 21, Code of Federal Regulations, accordingly.

(b) CERTAIN FORMS OF PSEUDOEPHEDRINE AND PHENYLPROPANOLAMINE.—Subject to the authority of the Attorney General under the Controlled Substances Act to designate substances as controlled substances or listed chemicals—

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

(2) pseudoephedrine or phenylpropanolamine when so contained shall be considered a listed chemical.

SEC. 3. REGULATION OF TRANSACTIONS INVOLVING LISTED CHEMICALS; EXEMPTION FOR CERTAIN DOSAGE FORMS AND QUANTITIES OF PSEUDOEPHEDRINE OR PHENYLPROPANOLAMINE.

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

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

(2) in subclause (II)—

(A) by inserting ''in liquid or gel form'' after ''containing pseudoephedrine or phenylpropanolamine products''; and

(B) by striking ''shall be 9 grams of pseudoephedrine or 9 grams of phenylpropanolamine'' and inserting ''shall be any quantity in excess of 9.0 grams of pseudoephedrine or 9.0 grams of phenylpropanolamine''.

(b) DEFINITION OF ORDINARY OVER-THE-COUNTER PSEUDOEPHEDRINE OR PHENYLPROPANOLAMINE PRODUCT.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (39)(A)(iv)(I)(aa), by striking ", except that" and all that follows through "1996)"; and

(2)(A) by striking paragraph (45); and

(B) by redesignating paragraph (46) as paragraph (45).

(c) CHEMICAL MIXTURES NOT EASILY USED IN ILLICIT PRODUCTION.—Section 102(39)(A)(v) of the Controlled Substances Act (21 U.S.C. 802(39)(A)(v)) is amended by inserting after "chemical mixture" the following: "(including a mixture that may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act)".

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