

REPORT OF THE STUDY COMMITTEE
ON THE IMPLEMENTATION AND APPLICATION OF ACT 275 OF 2006
September 29, 2011

The General Assembly, through Act 275 of 2006 regarding the sale of pseudoephedrine created a study committee to review the implementation and application of the act during the five years it has remained in effect. The study committee is charged to submit a report, including recommendations for legislative changes, if any to the Senate Medical Affairs Committee and the Medical, Military, Public and Municipal Affairs Committee before January 1, 2012. The following members were appointed to serve on the study committee:

Senator R. Wes Hayes, Jr.
Senator Darrell Jackson
Senator Joel Lourie
Senator Kevin L. Bryant
Representative Joseph H. Jefferson
Representative Lawrence Kit Spires
Representative Deborah A. Long
Representative Mia Butler Garrick
David Wilkie - Designee for the Department of Health and Environmental Control Director
Addison Livingston, R.Ph., PharmD - Designee for the of the S.C. Board of Pharmacy President
Terry Blackmon, R.Ph. - Designee for the S.C. Pharmacy Association President
Curtis Hartin, R.Ph. - National Association of Chain Drug Stores representative
Jessica Puckett-Beasley, R.Ph., PharmD - Designee for the S.C. Retailers Association President
Lieutenant Max Dorsey - Designee for the S.C. Law Enforcement Division Director

The study committee met Wednesday, September 28, 2011. All members were present except for Senator Darrell Jackson and Representative Mia Butler Garrick. Representative Spires nominated Senator Hayes to serve as chairman. Representative Jefferson seconded the nomination and Senator Hayes was unanimously elected chairman. The committee briefly reviewed the relevant statute and then proceeded to a discussion of its implementation and reviewed statistical information regarding the sale of pseudoephedrine products and law enforcement activities related to methamphetamine labs in South Carolina and other states.

Julie Price, a member of the Senate Medical Affairs Committee staff, presented a brief overview of the statutes to be reviewed by the study committee. Next, Senator Hayes recognized Lt. Max Dorsey from the South Carolina Law Enforcement Division (SLED) who provided the study committee with historical documentation regarding methamphetamine lab seizures in South Carolina and other states as well as information about pseudoephedrine sales in our state and an article on the pros and cons for placing greater restrictions on the sale of this methamphetamine ingredient. (Attachment 1) A general discussion followed in which the legislative members of the study committee asked questions about the problems SLED faces and the resources the agency needs to be effective in carrying out the provisions of the statute.

Senator Hayes recognized David Wilkie from the South Carolina Department of Health and Environmental Control (DHEC) who presented two documents to illustrate methamphetamine lab seizure trends over time and geographically in the state. (Attachment 2) While lab seizures dropped off after the statute was first enacted, they have been trending up ever since. Methamphetamine labs and dumps tend to be concentrated most heavily in the north western part of the state along with clusters in areas around Columbia, Aiken, and Charleston. Mr. Wilkie also informed the study committee that the environmental cleanup cost of remediating a seized methamphetamine lab is very high. He noted that the statute needs to be amended to make it clear that these costs can be recovered because DHEC often has to go to civil court to require the lab operators to pay these costs.

In the process of formulating its report, the study committee agreed it should prioritize the recommendations to start first with changes that will not inconvenience law abiding pseudoephedrine consumers.

The study committee makes the following recommendations:

1. The DEA, SLED and DHEC need to use a uniform methamphetamine lab site reporting method to make it easier for all agencies involved to work together and compile information for trend analysis.
2. Currently SLED receives real-time information about pseudoephedrine sales from retailers and pharmacies that are required to maintain electronic logs. However, convenience stores that sell only single dose packages and pharmacies that do not have a compatible point of sale system maintain written logs of pseudoephedrine sales. All retailers who sell pseudoephedrine should be required to comply with the electronic log.
3. Amend § 44-53-376 (C) to make it clear that the requirement for restitution includes the cost for environmental clean-up of methamphetamine lab sites.
4. Prohibit sale of pseudoephedrine products to any person with a prior conviction for a methamphetamine related offense.
5. Flag any consumer in the electronic log system who attempts to buy more than the maximum allowable purchase of pseudoephedrine in a month more than once. Increase the period a consumer is blocked from pseudoephedrine purchase to at least six months.
6. Lower the purchase limit from nine grams a month to a lesser amount. The study committee did not identify a specific amount.

There was general agreement among the members that these recommendations should be implemented and evaluated before moving on to more restrictive changes considered by the study committee. If these changes do not reduce the proliferation of methamphetamine labs in South Carolina, the study committee agreed two following additional measures should be considered.

1. Allow the sale of pseudoephedrine products only in pharmacies.
2. Require a prescription for purchase of pseudoephedrine products.

The study committee feels strongly that appropriate measures must be taken to discourage and prevent trafficking in methamphetamine in South Carolina. All members have accepted the report and per the requirements of Act 275 of 2006, this report is hereby transmitted to the Chairman of the Senate Medical Affairs Committee and the Chairman of the House Medical, Military, Public and Municipal Affairs Committee.

ADDENDUM

Mr. Terry Blackmon, R.Ph. shared the committee's findings with the SC Pharmacy Association Board and submitted the following concerns below from the Board:

With regards to item 5 it was determined that blocking access for attempting to buy more than the maximum allowable purchase in a month **more than once** is excessive in that it may inadvertently flag an unsuspecting consumer who innocently attempted a purchase on multiple occasions. We also feel that a six month block is excessive for being blocked by the system only more than once. In fact, one of our very own pharmacist's board members described a scenario in which she would have been blocked for six months due to an innocent attempt to purchase for a chronic allergic condition. Without a clear process to distinguish between innocent consumers and those who would otherwise abuse the system, our Board could not support item 5.

With regards to item 6, our board determined that the current monthly limit is within appropriate dosage quantities and any reduction from nine grams per month may lead to legitimate patients being denied access to appropriate medication. A once daily antihistamine/pseudoephedrine combination medication contains 240mg of pseudoephedrine. If taken daily for 31 days you have taken 7.44 grams, not far from the 9 gram limit. An immediate release pseudoephedrine medication would contain 60mg of pseudoephedrine to be taken every 4 to 6 hours or 4 to 6 doses daily. If taken every 4 to 6 hours for 31 days you have taken from 7.44 grams to 11.16 grams. I believe 9 grams per month is reasonable.

With regards to the two more restrictive changes considered (pharmacy only sales and prescription only sales), the Board agrees that these additional measures should **only** be implemented if the above do not reduce the proliferation of methamphetamine labs in South Carolina.