**South Carolina General Assembly**

119th Session, 2011-2012

**S. 1138**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Hayes, Lourie and Jackson

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Introduced in the Senate on January 24, 2012

Currently residing in the Senate Committee on **Medical Affairs**

Summary: Sale of drugs

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/24/2012 Senate Introduced and read first time ([Senate Journal‑page 10](file:///h:\sj%20archive\2012\01-24-12.docx))

1/24/2012 Senate Referred to Committee on **Medical Affairs** ([Senate Journal‑page 10](file:///h:\sj%20archive\2012\01-24-12.docx))

**VERSIONS OF THIS BILL**

[1/24/2012](file:///p:\pprever\2011-12\1138_20120124.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 44‑53‑399 SO AS TO PROHIBIT THE SALE OF CERTAIN DRUGS TO A PERSON FOR WHOM A PURCHASE OF THOSE DRUGS HAS GENERATED A STOP‑SALE ALERT ON TWO OCCASIONS DURING A THIRTY‑DAY PERIOD, TO SPECIFY THAT THIS PROHIBITION RUNS FOR A SIX‑MONTH PERIOD FROM THE DATE OF THE SECOND STOP‑SALE OCCURRENCE, AND TO PROVIDE A PENALTY FOR A VIOLATION; TO AMEND SECTION 44‑53‑375, AS AMENDED, RELATING TO THE UNLAWFUL POSSESSION, MANUFACTURE, AND TRAFFICKING OF METHAMPHETAMINES, SO AS TO REDUCE THE MINIMUM AMOUNT OF THOSE SUBSTANCES THAT CONSTITUTES A VIOLATION; TO AMEND SECTION 44‑53‑376, RELATING TO THE UNLAWFUL DISPOSAL OF METHAMPHETAMINE WASTE, SO AS TO PROVIDE THE PENALTIES FOR A VIOLATION INCLUDES THE COST OF A RELATED CLEAN UP; TO AMEND SECTION 44‑53‑398, AS AMENDED, RELATING TO THE SALE OF PRODUCTS CONTAINING EPHEDRINE AND PSEUDOEPHEDRINE, SO AS TO PROVIDE A RETAILER MAY NOT SELL CERTAIN QUANTITIES OF THESE DRUGS TO AN INDIVIDUAL WITHIN A CERTAIN PERIOD OR IF THE PERSON HAS BEEN CONVICTED OF CERTAIN CRIMES RELATED TO METHAMPHETAMINE; AND TO AMEND SECTION 23‑3‑1200, RELATING TO THE SLED STATEWIDE ELECTRONIC SYSTEM FOR MONITORING THE SALES AND PURCHASES OF NONPRESCRIPTION EPHEDRINE, PSEUDOEPHEDRINE, OR PHENYLPROPANOLAMINE, SO AS TO EXPAND THE DEFINITION OF A RETAILER.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 3, Chapter 53, Title 44 of the 1976 Code is amended by adding:

“Section 44‑53‑399. (A) An individual for whom a purchase generates stop‑sale alerts as provided in Section 44‑53‑398(D) on two occasions during any thirty‑day period may not purchase a drug described in Section 44‑53‑398(B) for a six‑month period immediately following the date on which the second stop‑sale occurred, and a retailer may not sell these drugs to this individual during this six‑month period.

(B) A person convicted of a violation of subsection (A) is guilty of a misdemeanor and, upon conviction for a first offense, must be fined not more than five thousand dollars and, upon conviction for a second or subsequent offense, must be fined not more than ten thousand dollars.”

SECTION 2. Section 44‑53‑375(E)(1) of the 1976 Code, as last amended by Act 273 of 2010, is further amended to read:

“(1) It is unlawful for any person, other than a manufacturer, practitioner, dispenser, distributor, or retailer to knowingly possess any product that contains ~~nine~~ seven and one half grams or more of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, or a combination of any of these substances. A person who violates this subsection is guilty of a felony known as ‘trafficking in ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, or a combination of any of these substances’ and, upon conviction, must be punished as follows if the quantity involved is:

(a) ~~nine~~ seven and one half grams or more, but less than twenty‑eight grams:

(i) for a first offense, a term of imprisonment of not more than ten years, no part of which may be suspended nor probation granted, and a fine of twenty‑five thousand dollars;

(ii) for a second offense, a term of imprisonment of not less than five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(iii) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty‑five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(b) twenty‑eight grams or more, but less than one hundred grams:

(i) for a first offense, a term of imprisonment of not less than seven years nor more than twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(ii) for a second offense, a term of imprisonment of not less than seven years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(iii) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty‑five years and not more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(c) one hundred grams or more, but less than two hundred grams, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(d) two hundred grams or more, but less than four hundred grams, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;

(e) four hundred grams or more, a term of imprisonment of not less than twenty‑five years nor more than thirty years with a mandatory minimum term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars.”

SECTION 3. Section 44‑53‑376(C) of the 1976 Code, as added by Act 275 of 2006, is amended to read:

“(C) ~~If a~~ A person who is convicted of a violation of this section~~,~~ in a manner that requires an emergency or environmental response~~, the person convicted~~ must ~~be required to~~ make restitution to all public entities involved in the emergency response, to cover the reasonable cost of their participation in the emergency response, including, but not limited to, the full cost of any environmental clean up performed. The convicted person shall make the restitution in addition to any other fine or penalty required by law.”

SECTION 4. Section 44‑53‑398(B) of the 1976 Code, as last amended by Act 242 of 2010, is further amended to read:

“(B)(1) A retailer may not sell to an individual:

(a) in any single day a nonprescription product or a combination of nonprescription products containing more than 3.6 grams of ephedrine, pseudoephedrine, or phenylpropanolamine; ~~and a retailer may not sell to an individual~~

(b) in a thirty‑day period a nonprescription product or a combination of nonprescription products containing more than nine grams of ephedrine, pseudoephedrine, or phenylpropanolamine; and

(c) any combination in subitems (a) and (b) to a person convicted of a criminal offense related to the sale, use, or possession of methamphetamine, its salts, or its isomers as provided in Section 44‑53‑375.

(2) An individual may not purchase:

(a) in any single day a nonprescription product or a combination of nonprescription products containing more than 3.6 grams of ephedrine, pseudoephedrine, or phenylpropanolamine; ~~and an individual may not purchase~~

(b) in a thirty‑day period a nonprescription product or a combination of nonprescription products containing more than nine grams of ephedrine, pseudoephedrine, or phenylpropanolamine; or

(c) any combination in subitems (a) and (b) if he has been convicted of a crime relating to the sale, use, or possession of methamphetamine, it salts, or its isomers as provided in Section 44‑53‑375.”

SECTION 5. Section 23‑3‑1200(F) of the 1976 Code, as added by Act 242 of 2010, is amended to read:

“(F) For purposes of this section ‘retailer’ means ~~a retail distributor~~ any entity, including a pharmacy, ~~where~~ engaged in the retail sale of any ephedrine, pseudoephedrine, or phenylpropanolamine ~~products are available for sale and~~ products. The term ‘retailer’ does not include an employee or agent of a retailer.”

SECTION 6. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 7. This act takes effect upon approval by the Governor.

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