

FEDERAL PSEUDOEPHEDRINE LAW

On March 9, 2006, President George W. Bush signed into law the USA Patriot Act, Title VII, which includes the Combat Methamphetamine Epidemic Act of 2005. The federal law applies to all cough and cold products (including combination products) that contain the methamphetamine precursor chemicals ephedrine, pseudoephedrine, or phenylpropanolamine (referred to here as PSE for simplicity). All PSE products, including liquids, gelcaps, and pediatrics, are subject to the law. Products reformulated so that they no longer contain these precursors may be sold without regard to the new statutory provisions.

The following requirements went into effect April 8, 2006:

1. **Daily Sales Limit on Retailers:** Retail sales may not exceed 3.6 grams PSE per day per purchaser, regardless of the number of transactions.
2. **30-Day Purchase Limit on Consumers:** Individuals are prohibited from purchasing more than 9 grams PSE per 30-day period.
3. **Non-Liquid Forms:** All non-liquid forms (including gelcaps) of PSE products must be sold in blister packs with no more than two dosages or in unit-dose packets or pouches.
4. **Mail Order Limits:** Mail-order companies may not sell more than 7.5 grams to a customer within a 30-day period.

The following requirements will go into effect September 30, 2006:

1. **Behind-the-Counter Placement:** All PSE products must be placed behind a counter (any counter, not necessarily the pharmacy counter) that is not accessible to purchasing consumers or in a locked display case that is located on the selling floor. Retailers must give the product directly to the purchaser; therefore, a retailer without a pharmacy may still sell the combination PSE products form behind a counter or locked display case.
2. **Logbook:** Retailers must maintain a logbook of information on transactions involving PSE products. The logbook may be maintained in either written or electronic form. The logbooks must capture the following information:
 - a. Purchaser's signature;
 - b. Purchaser's name and address;
 - c. Date and time of sale;
 - d. Name of product sold; and
 - e. Quantity sold.

Logbooks must provide notice to purchasers that entering false statements or misrepresentations in the logbook may subject purchasers to criminal penalties under 18 United States Code §1001. The purchaser must sign the logbook and enter the name, address,

and date and time of sale. The retailer must check the information entered by the purchaser against the photo ID and enter the name and quantity of product sold. Logbook requirements do not apply to purchases of single sales packages that contain no more than 60mg of PSE. Each entry must be maintained for two years following the date of entry and the format may be written or electronic.

3. **Photo ID:** In conjunction with the logbook requirement, retailers will be required to ask for photo identification (ID) issued by either a state or the federal government or other appropriate ID.
4. **Training and Certification:** Retailers must train applicable sales personnel to ensure that they understand the requirements of PSE product sales and submit self-certifications to the attorney general in this regard. The Drug Enforcement Administration will issue regulations on the training criteria.

A summary of this Act's requirements can be found on the United States Drug Enforcement Administration's (DEA) website at www.DEAdiversion.usdoj.gov/meth/cma2005.htm.
www.deadiversion.usdoj.gov/fed_regs/rules/2006/fr0926.htm