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Chapter No. 303
10/HR40/R712PH
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HOUSE BILL NO. 512

Originated in House Don Richardson Clerk

HOUSE BILL NO. 512

AN ACT TO AMEND SECTION 41-29-117, MISSISSIPPI CODE OF 1972, TO INCLUDE EPHEDRINE AND PSEUDOEPHEDRINE AS A SCHEDULE III CONTROLLED SUBSTANCE; TO AMEND SECTIONS 41-29-313 AND 41-29-317, MISSISSIPPI CODE OF 1972, TO CONFORM; TO REPEAL SECTION 41-29-315, MISSISSIPPI CODE OF 1972, WHICH RESTRICTS THE OVER-THE-COUNTER PURCHASE AND SALE OF EPHEDRINE AND PSEUDOEPHEDRINE; TO EXEMPT LICENSED WHOLESALE DRUG DISTRIBUTORS FROM CERTAIN REQUIREMENTS UNDER THIS ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 41-29-117, Mississippi Code of 1972, is amended as follows:

41-29-117. (A) The controlled substances listed in this section are included in Schedule III.

SCHEDULE III

(a) Any material, compound, mixture, or preparation which contains any quantity of the following substances or their salts, isomers, or salts of isomers, of the following substances:

(1) Benzphetamine;

(2) Chlorphentermine;

(3) Clortermine;

(4) Phendimetrazine.

(b) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules;

(2) Unless specifically excepted or unless listed in another schedule, any compound, mixture or preparation containing any of the following substances or any salt of the substances specifically included in this subsection (2) and one or more other active medicinal ingredients which are not listed in any other schedule:

(i) Amobarbital;

(ii) Secobarbital;

(iii) Pentobarbital;

(3) Any suppository dosage form containing any of the following substances or any salt of any of the substances specifically included in this subsection (3) approved by the Food and Drug Administration for marketing only as a suppository:

(i) Amobarbital;

(ii) Secobarbital;

(iii) Pentobarbital;

(4) Chlorhexadol;

(5) Any drug product containing gamma-hydroxybutyric acid, including its salts, isomers and salts of isomers, for which an application is approved under Section 505 of the Federal Food, Drug and Cosmetic Act;

(6) Lysergic acid;

(7) Lysergic acid amide;

(8) Methyprylon;

(9) Sulfondiethylmethane;

(10) Sulfonethylmethane;

(11) Sulfonmethane;

(12) Tiletamine and zolazepam or any salt thereof; other names for the tiletamine and zolazepam combination product include: telazol; other names for tiletamine include: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone; other names for zolazepam include: 4-(2-fluorophenyl)-6,8-dihydro 1,3, 8-trimethylpyrazolo-[3,4-e](1,4)-diazepin-7(1H)-one, flupyrazapon;

(13) Embutramide.

(c) Nalorphine.

(d) Ketamine.

(e) Any material, compound, mixture or preparation which contains any quantity of ephedrine or pseudoephedrine.

(f) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(1) Not more than one and eight-tenths (1.8) grams of codeine, or any of its salts, per one hundred (100) milliliters or not more than ninety (90) milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(2) Not more than one and eight-tenths (1.8) grams of codeine, or any of its salts, per one hundred (100) milliliters or not more than ninety (90) milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(3) Not more than three hundred (300) milligrams of dihydrocodeinone (also known as hydrocodone), or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(4) Not more than three hundred (300) milligrams of dihydrocodeinone (also known as hydrocodone), or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;

(5) Not more than one and eight-tenths (1.8) grams of dihydrocodeine, or any of its salts, per one hundred (100) milliliters or not more than ninety (90) milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(6) Not more than three hundred (300) milligrams of ethylmorphine, or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(7) Not more than five hundred (500) milligrams of opium per one hundred (100) milliliters or per one hundred (100) grams, or not more than twenty-five (25) milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(8) Not more than fifty (50) milligrams of morphine, or any of its salts, per one hundred (100) milliliters or per one hundred (100) grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(g) Any material, compound, mixture or preparation containing any quantity of any of the following anabolic steroids, which means any drug or hormonal substance chemically and pharmacologically related to testosterone (other than estrogens, progestins, corticosteroids and dehydroepiandrosterone) that promotes muscle growth, unless listed in another schedule or excepted:

(1) 3beta,17-dihydroxy-5a-androstane;

(2) 3alpha,17beta-dihydroxy-5a-androstane;

(3) 5alpha-androstan-3,17-dione;

(4) 1-androstenediol (3beta,17beta-dihydroxy-5alpha-androst-1-ene);

(5) 1-androstenediol (3alpha,17beta-dihydroxy-5alpha-androst-1-ene);

(6) 4-androstenediol (3beta,17beta-dihydroxy-androst-4-ene);

(7) 5-androstenediol (3beta,17beta-dihydroxy-androst-5-ene);

(8) 1-androstenedione ([5alpha]-androst-1-en-3, 17-dione);

(9) 4-androstenedione (androst-4-en-3,17-dione);

(10) 5-androstenedione (androst-5-en-3,17-dione);

(11) Bolasterone (7alpha,17alpha-dimethyl-17beta-hydroxyandrost-4-en-3-one);

(12) Boldenone (17beta-hydroxyandrost-1,4,-diene-3-one);

(13) Calusterone (7beta,17alpha-dimethyl-17beta-hydroxyandrost-4-en-3-one);

(14) Clostebol (4-chloro-17beta-hydroxyandrost-4-en-3-one);

(15) Dehydrochloromethyltestosterone (4-chloro-17beta-hydroxy-17alpha-methylandrost-1,4-dien-3-one);

(16) Delta1-dihydrotestosterone (also known as 1-testosterone) (17beta-hydroxy-5alpha-androst-1-en-3-one);

(17) 4-dihydrotestosterone (17beta-hydroxy-androstan-3-one);

(18) Drostanolone (17beta-hydroxy-2alpha-methyl-5alpha-androstan-3-one);

(19) Ethylestrenol (17alpha-ethyl-17beta-hydroxyestr-4-ene);

(20) Fluoxymesterone (9-fluoro-17alpha-methyl-11beta, 17beta-dihydroxyandrost-4-en-3-one);

(21) Formebolone (2-formyl-17alpha-methyl-11alpha,17beta-dihydroxyandrost-1, 4-dien-3-one);

(22) Furazabol (17alpha-methyl-17beta-hydroxyandrostano[2,3-c]-furazan);

(23) 13beta-ethyl-17alpha-hydroxygon-4-en-3-one;

(24) 4-hydroxytestosterone (4,17beta-dihydroxyandrost-4-en-3-one);

(25) 4-hydroxy-19-nortestosterone (4,17beta-dihydroxy-estr-4-en-3-one);

(26) Mestanolone (17alpha-methyl-17beta-hydroxy-5-androstan-3-one);

(27) Mesterolone (1alpha-methyl-17beta-hydroxy-[5alpha]-androstan-3-one);

(28) Methandienone (17alpha-methyl-17beta-hydroxyandrost-1,4-dien-3-one);

(29) Methandriol (17alpha-methyl-3beta, 17beta-dihydroxyandrost-5-ene);

(30) Methenolone (1-methyl-17beta-hydroxy-5alpha-androst-1-en-3-one);

(31) 17alpha-methyl-3beta, 17beta-dihydroxy-5a-androstane;

(32) 17alpha-methyl-3alpha, 17beta-dihydroxy-5a-androstane;

(33) 17alpha-methyl-3beta, 17beta-dihydroxyandrost-4-ene;

(34) 17alpha-methyl-4-hydroxynandrolone (17alpha-methyl-4-hydroxy-17beta-hydroxyestr-4-en-3-one);

(35) Methyldienolone (17alpha-methyl-17beta-hydroxyestra-4,9(10)-dien-3-one);

(36) Methyltrienolone (17alpha-methyl-17beta-hydroxyestra-4,9-11-trien-3-one);

(37) Methyltestosterone (17alpha-methyl-17beta-hydroxyandrost-4-en-3-one);

(38) Mibolerone (7alpha,17alpha-dimethyl-17beta-hydroxyestr-4-en-3-one);

(39) 17alpha-methyl-Delta1-dihydrotestosterone (17b beta-hydroxy-17alpha-methyl-5alpha-androst-1-en-3-one) (also known as 17-alpha-methyl-1-testosterone);

(40) Nandrolone (17beta-hydroxyestr-4-en-3-one);

(41) 19-nor-4-androstenediol (3beta,17beta-dihydroxyestr-4-ene);

(42) 19-nor-4-androstenediol (3a,17beta-dihydroxyestr-4-ene);

(43) 19-nor-5-androstenediol (3beta,17beta-dihydroxyestr-5-ene);

(44) 19-nor-5-androstenediol (3alpha,17beta-dihydroxyestr-5-ene);

(45) 19-nor-4-androstenedione (estr-4-en-3,17-dione);

(46) 19-nor-5-androstenedione (estr-5-en-3,17-dione);

(47) Norbolethone (13beta,17alpha-diethyl-17beta-hydroxygon-4-en-3-one);

(48) Norclostebol (4-chloro-17beta-hydroxyestr-4-en-3-one);

(49) Norethandrolone (17alpha-ethyl-17beta-hydroxyestr-4-en-3-one);

(50) Normethandrolone (17alpha-methyl-17beta-hydroxyestr-4-en-3-one);

(51) Oxandrolone (17alpha-methyl-17beta-hydroxy-2-oxa-[5alpha]-androstan-3-one);

(52) Oxymesterone (17alpha-methyl-4,17beta-dihydroxyandrost-4-en-3-one);

(53) Oxymetholone (17alpha-methyl-2-hydroxymethylene-17beta-hydroxy-[5alpha]-androstan-3-one);

(54) Stanozolol (17alpha-methyl-17beta-hydroxy-[5alpha]-androst-2-eno[3,2-c]-pyrazole);

(55) Stenbolone (17beta-hydroxy-2-methyl-[5alpha]-androst-1-en-3-one);

(56) Testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone);

(57) Testosterone (17beta-hydroxyandrost-4-en-3-one);

(58) Tetrahydrogestrinone (13beta,17alpha-diethyl-17beta-hydroxygon-4,9,11-trien-3-one);

(59) Trenbolone (17beta-hydroxyestr-4,9,11-trien-3-one);

(60) Any salt, ester, or ether of a drug or substance described in this paragraph. Except such term does not include an anabolic steroid that is expressly intended for administration through implants to cattle or other nonhuman species and that has been approved by the Secretary of Health and Human Services for such administration. If any person prescribes, dispenses, or distributes such steroid for human use, the person shall be considered to have prescribed, dispensed or distributed an anabolic steroid within the meaning of this paragraph;

(61) Any salt, ester or ether of a drug or substance described or listed in this paragraph.

(h) Any material, compound, mixture or preparation which contains any quantity of buprenorphine or its salts.

(i) Any material, compound, mixture or preparation which contains any quantity of pentazocine or its salts in oral dosage form.

(j) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved drug product.

(B) Any material, compound, mixture or preparation which contains any quantity of a Schedule III controlled substance and is listed as an exempt substance in 21 CFR, Section 1308.22, 1308.24, 1308.26, 1308.32 or 1308.34, shall be exempted from the provisions of the Uniform Controlled Substances Law.

SECTION 2. Section 41-29-313, Mississippi Code of 1972, is amended as follows:

41-29-313. (1) (a) Except as authorized in this section * * *, it is unlawful for any person to knowingly or intentionally:

(i) Purchase, possess, transfer, manufacture, attempt to manufacture or distribute any two (2) or more of the listed precursor chemicals or drugs in any amount with the intent to unlawfully manufacture a controlled substance;

(ii) Purchase, possess, transfer, manufacture, attempt to manufacture or distribute any two (2) or more of the listed precursor chemicals or drugs in any amount, knowing, or under circumstances where one reasonably should know, that the listed precursor chemical or drug will be used to unlawfully manufacture a controlled substance;

(b) The term "precursor drug or chemical" means a drug or chemical that, in addition to legitimate uses, may be used in manufacturing a controlled substance in violation of this chapter. The term includes any salt, optical isomer or salt of an optical isomer, whenever the existence of a salt, optical isomer or salt of optical isomer is possible within the specific chemical designation. The chemicals or drugs listed in this section are included by whatever official, common, usual, chemical or trade name designated. A "precursor drug or chemical" includes, but is not limited to, the following:

(i) Ether;

(ii) Anhydrous ammonia;

(iii) Ammonium nitrate;

(iv) Pseudoephedrine;

(v) Ephedrine;

(vi) Denatured alcohol (Ethanol);

(vii) Lithium;

(viii) Freon;

(ix) Hydrochloric acid;

(x) Hydriodic acid;

(xi) Red phosphorous;

(xii) Iodine;

(xiii) Sodium metal;

(xiv) Sodium hydroxide;

(xv) Muriatic acid;

(xvi) Sulfuric acid;

(xvii) Hydrogen chloride gas;

(xviii) Potassium;

(xix) Methanol;

(xx) Isopropyl alcohol;

(xxi) Hydrogen peroxide;

(xxii) Hexanes;

(xxiii) Heptanes;

(xxiv) Acetone;

(xxv) Toluene;

(xxvi) Xylenes.

(c) Any person who violates this subsection (1), upon conviction, is guilty of a felony and may be imprisoned for a period not to exceed thirty (30) years and shall be fined not less than Five Thousand Dollars ($5,000.00) nor more than One Million Dollars ($1,000,000.00), or both fine and imprisonment.

(2) (a) It is unlawful for any person to knowingly or intentionally steal or unlawfully take or carry away any amount of anhydrous ammonia or to break, cut, or in any manner damage the valve or locking mechanism on an anhydrous ammonia tank with the intent to steal or unlawfully take or carry away anhydrous ammonia.

(b) (i) It is unlawful for any person to purchase, possess, transfer or distribute any amount of anhydrous ammonia knowing, or under circumstances where one reasonably should know,

that the anhydrous ammonia will be used to unlawfully manufacture a controlled substance.

(ii) The possession of any amount of anhydrous ammonia in a container unauthorized for containment of anhydrous ammonia pursuant to Section 75-57-9 shall be prima facie evidence of intent to use the anhydrous ammonia to unlawfully manufacture a controlled substance.

(c) (i) It is unlawful for any person to purchase, possess, transfer or distribute two hundred fifty (250) dosage units or fifteen (15) grams in weight (dosage unit and weight as defined in Section 41-29-139) of pseudoephedrine or ephedrine, knowing, or under circumstances where one reasonably should know, that the pseudoephedrine or ephedrine will be used to unlawfully manufacture a controlled substance.

(ii) Except as provided in this subparagraph, possession of one or more products containing more than twenty-four (24) grams of ephedrine or pseudoephedrine shall constitute a rebuttable presumption of intent to use the product as a precursor to methamphetamine or another controlled substance. The rebuttable presumption established by this subparagraph shall not apply to the following persons who are lawfully possessing the identified drug products in the course of legitimate business:

1. A retail distributor of the drug products described in this subparagraph possessing a valid business license or wholesaler;

2. A wholesale drug distributor, or its agents, licensed by the Mississippi State Board of Pharmacy;

3. A manufacturer of drug products described in this subparagraph, or its agents, licensed by the Mississippi State Board of Pharmacy;

4. A pharmacist licensed by the Mississippi State Board of Pharmacy; or

5. A licensed health care professional possessing the drug products described in this subparagraph (ii) in the course of carrying out his profession.

(d) Any person who violates this subsection (2), upon conviction, is guilty of a felony and may be imprisoned for a period not to exceed five (5) years and shall be fined not more than Five Thousand Dollars ($5,000.00), or both fine and imprisonment.

(3) Nothing in this section shall preclude any farmer from storing or using any of the listed precursor drugs or chemicals listed in this section in the normal pursuit of farming operations.

(4) Nothing in this section shall preclude any wholesaler, retailer or pharmacist from possessing or selling the listed precursor drugs or chemicals in the normal pursuit of business.

(5) Any person who violates the provisions of this section with children under the age of eighteen (18) years present may be subject to a term of imprisonment or a fine, or both, of twice that provided in this section.

(6) Any person who violates the provisions of this section when the offense occurs in any hotel or apartment building or complex may be subject to a term of imprisonment or a fine, or both, of twice that provided in this section. For the purposes of this subsection (6), the following terms shall have the meanings ascribed to them:

(a) "Hotel" means a hotel, inn, motel, tourist court, apartment house, rooming house or any other place where sleeping accommodations are furnished or offered for pay if four (4) or more rooms are available for transient guests.

(b) "Apartment building" means any building having four (4) or more dwelling units, including, without limitation, a condominium building.

(7) Any person who violates the provisions of this section who has in his possession any firearm, either at the time of the commission of the offense or at the time any arrest is made, may be subject to a term of imprisonment or a fine, or both, of twice that provided in this section.

(8) Any person who violates the provisions of this section upon any premises upon which any booby trap has been installed or rigged may be subject to a term of imprisonment or a fine, or both, of twice that provided in this section. For the purposes of this subsection, the term "booby trap" means any concealed or camouflaged device designed to cause bodily injury when triggered by any action of a person making contact with the device. The term includes guns, ammunition or explosive devices attached to trip wires or other triggering mechanisms, sharpened stakes, nails, spikes, electrical devices, lines or wires with hooks attached, and devices designed for the production of toxic fumes or gases.

SECTION 3. Section 41-29-317, Mississippi Code of 1972, is amended as follows:

41-29-317. (1) The Bureau of Narcotics may develop and maintain a program to inform retailers about the methamphetamine problem in the state and devise procedures and forms for retailers to use in reporting to the Bureau of Narcotics suspicious purchases, thefts or other transactions involving any products under the retailer's control which contain a regulated precursor under the provisions of Section 41-29-313 * * *.

(2) Reporting by retailers as required by this section shall be voluntary.

(3) Retailers reporting information to the Bureau of Narcotics in good faith pursuant to this section shall be immune from civil and criminal liability for a violation of Section 41-29-313 * * *.

SECTION 4. Section 41-29-315, Mississippi Code of 1972, which restricts the over-the-counter purchase and sale of ephedrine and pseudoephedrine, is repealed.

SECTION 5. This act does not apply to wholesale drug distributors licensed and regulated by the Mississippi Board of Pharmacy and registered with and regulated by the United States Drug Enforcement Administration and exempts them from storage, reporting, record keeping or physical security control requirements for controlled substances containing any material, compound, mixture or preparation which contains any quantity of ephedrine or pseudoephedrine.

SECTION 6. This act shall take effect and be in force from and after July 1, 2010.

PASSED BY THE HOUSE OF REPRESENTATIVES
January 28, 2010

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
February 2, 2010

PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

GOVERNOR

2/11/10 9:15 am