

State of South Dakota

EIGHTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2014

400V0383

SENATE BILL NO. 24

Introduced by: The Committee on Judiciary at the request of the Office of the Attorney General

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to pseudoephedrine,
2 ephedrine, or phenylpropanolamine sales.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 34-20D-8 be amended to read as follows:

5 34-20D-8. If offering for sale a product containing pseudoephedrine ~~or~~, ephedrine, or
6 phenylpropanolamine as an active ingredient, a retailer shall, before making such a sale, require
7 and make a record of the identification of the person purchasing the product ~~containing~~
8 ~~pseudoephedrine or ephedrine~~. For purposes of this section, the term, identification, means a
9 document issued by a governmental agency ~~which~~ that contains a description of the person or
10 a photograph of the person, ~~or both~~, and gives the person's date of birth, such as a tribal
11 identification card, driver license, state-issued identification card, passport, or military
12 identification card. The retailer shall ~~maintain~~ electronically submit the record of identification,
13 including the purchaser's name ~~and~~, date of birth, address of purchaser, the product name, the
14 quantity sold, the date and time of the sale, and unique identification number relating to the
15 electronic record into the electronic record-keeping system prior to completing the sale of a



1 product containing pseudoephedrine, ephedrine, or phenylpropanolamine unless a waiver has
2 been granted. On August 1, 2006, and no later than the fifth day of every month thereafter, the
3 retailer shall submit, electronically or in writing, any such records to the Office of the Attorney
4 General. If a waiver is granted, the retailer shall submit written records to the Office of the
5 Attorney General no later than the fifth day of every month. The retailer shall maintain the
6 record of identification required by this section for two years, after which the record shall be
7 destroyed. No retailer may use or maintain the record for any private or commercial purpose or
8 disclose the record to any person, except as authorized by law. The retailer shall disclose the
9 record, upon request, to a law enforcement agency for a law enforcement purpose. If the sale
10 generates a stop-sale alert, the seller may not complete the sale unless the seller has a reasonable
11 fear of imminent bodily harm if he or she does not complete the sale. The electronic record-
12 keeping system shall contain an override function to the stop-sale alert for the seller to use in
13 a situation in which a reasonable fear of imminent bodily harm is present.

14 Section 2. That chapter 34-20D be amended by adding thereto a NEW SECTION to read
15 as follows:

16 The Office of the Attorney General may provide retailers of chemical products containing
17 pseudoephedrine, ephedrine, or phenylpropanolamine access to a real-time electronic record-
18 keeping system to enter into the record system any transaction required by § 34-20D-8. The real-
19 time electronic record-keeping system shall be maintained in a central repository and shall have
20 the capability to calculate state and federal ephedrine base, pseudoephedrine base, and
21 phenylpropanolamine base purchase limitations. The electronic record-keeping system shall
22 include a record of all the information obtained under section 1 of this Act and the unique
23 identification number, type, and state of issue. The Office of the Attorney General may contract
24 with a private vendor to implement this section. A contractor shall comply with the

1 confidentiality requirements of this chapter and is subject to sanctions for violation of
2 confidentiality requirements, including termination of the contract. No cost may be assessed to
3 the retailer associated with the implementation, access, continuation, or maintenance of the
4 electronic record-keeping system.

5 Section 3. That chapter 34-20D be amended by adding thereto a NEW SECTION to read
6 as follows:

7 The attorney general may grant a retailer a waiver pursuant to section 1 of this Act if the
8 retailer demonstrates that the electronic reporting will cause the retailer an undue economic
9 hardship or that the retailer does not have the technological ability to report electronically.