

HOUSE BILL 2484

By Ragan

AN ACT to amend Tennessee Code Annotated, Title 5;
Title 6; Title 7; Title 39, Chapter 17, Part 4; Title 63
and Title 68, relative to methamphetamine
precursors.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 63, Chapter 10, is amended by adding the following as a new part 7:

63-10-701.

(a) For the purposes of this part, "pharmacy" means a pharmacy operating under this chapter, which sells any immediate methamphetamine precursor at retail to the public.

(b) The governing body of each county, by resolution, and the governing body of each city, town or metropolitan government, by ordinance, may, upon a two-thirds (2/3) vote of the governing body, regulate and license the sale of immediate methamphetamine precursors by any pharmacies within the jurisdiction of the counties, cities, towns, or metropolitan governments, and may collect a fee from the pharmacy for a license issued pursuant to this part.

(c) The ordinance or resolution may prohibit pharmacies from selling, delivering, and distributing over-the-counter products containing ephedrine or pseudoephedrine under the following circumstances:

(1) Without a valid prescription issued by a licensed physician; certified physician assistant; nurse authorized pursuant to § 63-6-204, who is rendering service under the supervision, control and responsibility of a licensed physician and who meets the requirements of title 63, chapter 7, part 2; any other licensed

health care professional who is authorized to prescribe by the law of this state; or pharmacist pursuant to § 63-10-206, who provides patient education and counseling as part of the practice of pharmacy as required when the products are dispensed pursuant to such pharmacist-generated prescription order; or

(2) To persons who are under eighteen (18) years of age.

(d) The governing body may impose either or both of the restrictions set forth in subsection (c) as will promote public health, welfare or safety as the governing body may by ordinance or resolution provide. Prior to adoption by the governing body of a resolution or ordinance as provided for in this part, the governing body, in consultation with the chief law enforcement officer of the local jurisdiction, shall have found and determined that there exists a problem of methamphetamine manufacturing or abuse of immediate methamphetamine precursors within the local jurisdiction and that the problem poses a threat or danger to public health, welfare or safety. The findings and determination shall be included in the resolution or ordinance.

63-10-702.

The power granted to a governing body of a county, city, town or metropolitan government by this part to enact an ordinance or resolution regulating the sale of immediate methamphetamine precursors does not permit the governing body to establish any additional requirements or restrictions on pharmacies or their employees or on purchasers of immediate methamphetamine precursors.

63-10-703.

(a) No ordinance or resolution enacted pursuant to this part shall prescribe criminal penalties or other punishment for violations of such resolutions or ordinances; provided, that the ordinance or resolution may impose a civil monetary penalty on a pharmacy not to exceed fifty dollars (\$50.00) or may subject the license issued to a pharmacy under this part to administrative suspension or revocation by the board of pharmacy in accordance with part 3 of this chapter, or may authorize both penalties, for each violation of the ordinance or resolution by a pharmacy.

(b) The ordinances or resolutions implementing the regulation and licensing requirements of this part shall include methods for the collection of license fees or civil monetary penalties and shall require that the funds derived from the fees and penalties be used solely for methamphetamine clean-up activities in the jurisdiction of the county, city, town or metropolitan government enacting the ordinance or resolution.

SECTION 2. Tennessee Code Annotated, Section 63-10-305, is amended by adding the following as a new, appropriately designated subdivision:

() Violated an ordinance or resolution regulating the sale of immediate methamphetamine precursors enacted by a county, city, town, or metropolitan government pursuant to part 7 of this chapter;

SECTION 3. Tennessee Code Annotated, Section 39-17-431, is amended by deleting subsection (n) and substituting instead the following:

(n) This section supersedes any local laws or ordinances regulating the sale of products containing any immediate methamphetamine precursor in effect prior to the effective date of this act; provided, however, that nothing in this section shall preempt or prevent any county, city, town, or metropolitan government in this state from enacting and enforcing, on and after the effective date of this act, any ordinance or resolution that places any of the restrictions, regulations, licensing, and other civil or administrative provisions authorized by title 63, chapter 10, part 7, upon sales of products containing any immediate methamphetamine precursor. If a county, city, town, or metropolitan government chooses to enact and enforce its own regulatory scheme for pharmacies pursuant to title 63, chapter 10, part 7, then all provisions of this section not in conflict with the ordinance or resolution shall continue to apply within the jurisdiction of the county, city, town or metropolitan government.

SECTION 4. This act shall take effect July 1, 2014, the public welfare requiring it.