WEST VIRGINIA CODE: §60a-10-4

§60A-10-4. Purchase, receipt, acquisition and possession of substances to be used as precursor to manufacture of methamphetamine or another controlled substance; offenses; exceptions; penalties.

(a) A pharmacy may not sell, transfer, or dispense to the same person, and a person may not purchase more than three and six-tenths grams per day, more than seven and two-tenths grams in a 30-day period, or more than 86 and four-tenths grams annually of ephedrine, pseudoephedrine, or phenylpropanolamine without a prescription. The limits shall apply to the total amount of ephedrine, pseudoephedrine, and phenylpropanolamine contained in the products, and not the overall weight of the products.

(1) Any person who knowingly purchases, receives, or otherwise possesses more than seven and two-tenths grams in a 30-day period of ephedrine, pseudoephedrine, or phenylpropanolamine in any form without a prescription is guilty of a misdemeanor and, upon conviction thereof, shall be confined in a jail for not more than one year, fined not more than $1,000, or both fined and confined.

(2) Any pharmacy, wholesaler, or other entity operating the retail establishment which sells, transfers, or dispenses a product in violation of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000 for the first offense, or more than $10,000 for each subsequent offense.

(b) Notwithstanding the provisions of subdivision (1), subsection (a), of this section, any person convicted of a second or subsequent violation of the provisions of said subdivision or a statute or ordinance of the United States or another state which contains the same essential elements is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one nor more than five years, fined not more than $25,000, or both imprisoned and fined.

(c) The provisions of subsection (a) of this section shall not apply to:

(1) Products dispensed pursuant to a valid prescription;

(2) Drug products which are for pediatric use primarily intended for administration to children under the age of 12;

(3) Drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, or optical isomers, or salts of optical isomers, or other designated precursor which have been determined by the Board of Pharmacy to be in a form which is not feasible for being used for the manufacture of methamphetamine; or

(4) Persons lawfully possessing drug products in their capacities as distributors, wholesalers,

WV Legislature

manufacturers, pharmacists, pharmacy interns, pharmacy technicians, or health care professionals.

(d) Notwithstanding any provision of this code to the contrary, any person who knowingly possesses any amount of ephedrine, pseudoephedrine, phenylpropanolamine, or other designated precursor with the intent to use it in the manufacture of methamphetamine or who knowingly possesses a substance containing ephedrine, pseudoephedrine, or phenylpropanolamine or their salts, optical isomers, or salts of optical isomers in a state or form which is, or has been, altered or converted from the state or form in which these chemicals are, or were, commercially distributed is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than two nor more than 10 years, fined not more than $25,000, or both imprisoned and fined.

(e) (1) Any pharmacy, wholesaler, manufacturer, or distributor of drug products containing ephedrine, pseudoephedrine, phenylpropanolamine, their salts, or optical isomers, or salts of optical isomers, or other designated precursor shall obtain a registration annually from the State Board of Pharmacy as described in §60A-10-6 of this code. Any such pharmacy, wholesaler, manufacturer, or distributor shall keep complete records of all sales and transactions as provided in §60A-10-8 of this code. The records shall be gathered and maintained pursuant to legislative rule promulgated by the Board of Pharmacy.

(2) Any drug products possessed without a registration as provided in this section are subject to forfeiture upon conviction for a violation of this section.

(3) In addition to any administrative penalties provided by law, any violation of this subsection is a misdemeanor, punishable upon conviction by a fine in an amount not more than $10,000.

WV Legislature