

SENATE BILL No. 503

By Committee on Ways and Means

1-29

9 AN ACT concerning controlled substances; enacting the methampheta-
10 mine precursor recording act.

11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. This act shall be known and may be cited as the meth-
14 amphetamine precursor recording act.

15 Sec. 2. As used in this act, unless the context otherwise requires:

16 (a) "Board" means the state board of pharmacy.

17 (b) "Methamphetamine precursor" means any compound, mixture or
18 preparation containing pseudoephedrine, ephedrine or phenylpropano-
19 lamine, or any of their salts or optical isomers, or salts of optical isomers,
20 but does not include products that have been formulated in such a way
21 as to effectively prevent the conversion of the active ingredient into meth-
22 amphetamine, or its salts for precursors, and does not include animal feed
23 products containing ephedrine or any naturally occurring or herbal
24 ephedra or extract of ephedra.

25 (c) "Pharmacy" means premises, laboratory, area or other place, in-
26 cluding in-state, out-of-state and internet facilities: (1) Where drugs are
27 offered for sale where the profession of pharmacy is practiced and where
28 prescriptions are compounded and dispensed; or (2) which has displayed
29 upon it or within it the words "pharmacist," "pharmaceutical chemist,"
30 "pharmacy," "apothecary," "drugstore," "druggist," "drugs," "drug sun-
31 dries" or any of these words or combinations of these words or words of
32 similar import either in English or any sign containing any of these words;
33 or (3) where the characteristic symbols of pharmacy or the characteristic
34 prescription sign "Rx" may be exhibited.

35 Sec. 3. (a) The board shall establish and maintain a program for the
36 recording of methamphetamine precursors.

37 (b) Each pharmacy shall maintain an electronic methamphetamine
38 precursor recording log documenting the sale of methamphetamine pre-
39 cursors. The board shall promulgate rules and regulations specifying a
40 standardized format for the log and the information that each pharmacy
41 shall submit to the board, which shall include, but not be limited to:

42 (1) The name, address and signature of the person purchasing, re-
43 ceiving or otherwise acquiring the methamphetamine precursor;

1 (2) the name of the product and quantity purchased;
2 (3) the date and time of the purchase; and
3 (4) the name, or initials, of the licensed pharmacist, registered phar-
4 macy technician or pharmacy intern or clerk supervised by a licensed
5 pharmacist who sold the product.

6 (c) Each pharmacy shall submit the information from the log at the
7 point of sale in real time in accordance with transmission methods spec-
8 ified in rules and regulations promulgated by the board.

9 (d) The board may issue a waiver to a pharmacy that is unable to
10 submit log information by electronic means. Such waiver may permit the
11 pharmacy to submit log information by paper form or other means, pro-
12 vided that all information required by rules and regulations is submitted
13 in this alternative format.

14 (e) No pharmacy or pharmacy employee shall be liable to any person
15 in a civil action for damages or other relief arising from a sale of a meth-
16 amphetamine precursor that occurs at another pharmacy.

17 Sec. 4. The board shall not impose any charge for the establishment
18 or maintenance of the program for the recording of methamphetamine
19 precursors on a pharmacy. The board shall not charge any fees for the
20 transmission of data to the program database or for the receipt of infor-
21 mation from the database.

22 Sec. 5. (a) Methamphetamine precursor recording log information
23 submitted to the board shall be confidential and not a public record and
24 not subject to the Kansas open records act, K.S.A. 45-215 et seq., and
25 amendments thereto, except as provided in subsections (c) and (d).

26 (b) The board shall maintain procedures to ensure that the privacy
27 and confidentiality of information collected, recorded, transmitted and
28 maintained is not disclosed to persons except as provided in subsections
29 (c) and (d).

30 (c) The board shall be authorized to provide data in the log to the
31 following persons:

32 (1) Any person authorized to prescribe or dispense products contain-
33 ing pseudoephedrine, ephedrine or phenylpropanolamine, for the pur-
34 pose of providing medical or pharmaceutical care for their patients;

35 (2) local, state and federal law enforcement or prosecutorial officials;
36 and

37 (3) local, state and federal officials who request access for the purpose
38 of facilitating a product recall necessary for the protection of public health
39 and safety.

40 (d) The board may provide data to public or private entities for sta-
41 tistical, research or educational purposes after removing information that
42 could be used to identify individual patients or persons who received
43 methamphetamine precursors from pharmacies.

1 Sec. 6. The board is hereby authorized to contract with another
2 agency of this state or with a private vendor, as necessary, to ensure the
3 effective implementation and operation of the methamphetamine pre-
4 cursor recording log. The log shall be capable of sending real time noti-
5 fication to law enforcement officials. Any contractor shall be bound to
6 comply with the provisions regarding confidentiality of log information in
7 section 5, and amendments thereto, and shall be subject to the penalties
8 specified in section 10, and amendments thereto, for unlawful acts.

9 Sec. 7. All information collected for the prescription monitoring pro-
10 gram database and any records maintained by the board, or by any entity
11 contracting with the board, submitted to, maintained or stored as a part
12 of the database, shall be retained for five years. Such information and
13 records shall then be destroyed unless a law enforcement entity or an
14 entity charged with administrative oversight of those persons engaged in
15 the prescribing or dispensing of controlled substances has submitted a
16 written request to the board for retention of specific information or re-
17 cords in accordance with procedures adopted by the board.

18 Sec. 8. (a) The board shall develop and implement a program to ed-
19 ucate pharmacies and pharmacy employees about the program for the
20 recording of methamphetamine precursors.

21 (b) The board shall review the effectiveness of the program for the
22 recording of methamphetamine precursors and submit an annual report
23 to the senate standing committee on public health and welfare and the
24 house standing committee on health and human services.

25 Sec. 9. The board is hereby authorized to promulgate rules and reg-
26 ulations necessary to carry out the provisions of this act.

27 Sec. 10. (a) A pharmacy that knowingly fails to submit methamphet-
28 amine precursor recording log information to the board as required by
29 this act or knowingly submits incorrect log information shall be guilty of
30 a severity level 10, nonperson felony.

31 (b) A person authorized to have log information pursuant to this act
32 who knowingly discloses such information in violation of this act shall be
33 guilty of a severity level 10, nonperson felony.

34 (c) A person authorized to have log information pursuant to this act
35 who knowingly uses such information in a manner or for a propose in
36 violation of this act shall be guilty of a severity level 10, nonperson felony.

37 Sec. 11. This act shall take effect and be in force from and after its
38 publication in the statute book.