

Amend CSSB 107 by striking all below the enacting clause and substituting the following:

SECTION 1. Subchapter D, Chapter 481, Health and Safety Code, is amended by adding Section 481.1245 to read as follows:

Sec. 481.1245. OFFENSE: POSSESSION OR TRANSPORT OF ANHYDROUS AMMONIA; USE OF OR TAMPERING WITH EQUIPMENT. (a) A person commits an offense if the person:

(1) possesses or transports anhydrous ammonia in a container or receptacle that is not designed or manufactured to hold or transport anhydrous ammonia;

(2) uses, transfers, or sells a container or receptacle that is designed or manufactured to hold anhydrous ammonia without the express consent of the owner of the container or receptacle; or

(3) tampers with equipment that is manufactured or used to hold, apply, or transport anhydrous ammonia without the express consent of the owner of the equipment.

(b) An offense under this section is a felony of the third degree.

SECTION 2. Subchapter C, Chapter 481, Health and Safety Code, is amended by adding Section 481.0721 to read as follows:

Sec. 481.0721. OVER-THE-COUNTER SALES OF EPHEDRINE, PSEUDOEPHEDRINE, AND NORPSEUDOEPHEDRINE. (a) In this section, "ephedrine," "pseudoephedrine," and "norpseudoephedrine" mean any compound, mixture, or preparation containing any detectable amount of that substance, including its salts, optical isomers, and salts of optical isomers. The term does not include any compound, mixture, or preparation that is in liquid, liquid capsule, or liquid gel capsule form.

(b) A business establishment may engage in over-the-counter sales of products containing ephedrine, pseudoephedrine, or norpseudoephedrine only if the establishment:

(1) operates a pharmacy licensed by the Texas State Board of Pharmacy;

(2) engages only in direct retail sales to patrons of the establishment for the patrons' personal use; and

(3) complies with the requirements of this section.

(c) A business establishment that engages in over-the-counter sales of products containing ephedrine, pseudoephedrine, or norpseudoephedrine as the only active ingredient shall maintain those products behind the pharmacy counter.

(d) A business establishment that engages in over-the-counter sales of products that contain ephedrine, pseudoephedrine, or norpseudoephedrine combined with at least one other active ingredient shall maintain those products:

(1) behind the pharmacy counter; or

(2) in a locked case within 30 feet and in a direct line of sight from a cash register or counter staffed by an employee of the establishment.

(e) Before completing an over-the-counter sale of a product containing ephedrine, pseudoephedrine, or norpseudoephedrine, a business establishment shall:

(1) require the person purchasing the product to:

(A) display a driver's license or other form of identification containing the person's photograph and date of birth; and

(B) sign for the purchase;

(2) make a record of the sale, including the name and date of birth of the person making the purchase, the date of purchase, and the item and number of grams purchased; and

(3) take actions necessary to prevent a person who makes over-the-counter purchases of one or more products containing ephedrine, pseudoephedrine, or norpseudoephedrine from obtaining from the establishment in a single transaction more than:

(A) two packages of those products; or

(B) six grams of ephedrine, pseudoephedrine, norpseudoephedrine, or a combination of those substances.

(f) The business establishment shall maintain each record made under Subsection (e)(2) for at least two years after the date the record is made and shall make each record available on request by the department or the Texas State Board of Pharmacy.

SECTION 3. Section 481.077(1), Health and Safety Code, is amended to read as follows:

(1) This section does not apply to the sale or transfer of any compound, mixture, or preparation containing ~~[a nonnarcotic product that:~~

~~[(1) includes:~~

~~[(A)] ephedrine,~~[+

~~[(B)] pseudoephedrine,~~or[+

~~[(C)] norpseudoephedrine~~ that is in liquid, liquid capsule, or liquid gel capsule form~~[+ or~~

~~[(D)] phenylpropanolamine; and~~

~~[(2) is sold with a prescription or over the counter in accordance with a federal statute or rule].~~

SECTION 4. Chapter 504, Health and Safety Code, is repealed.

SECTION 5. The changes in law made by this Act in adding Section 481.1245, Health and Safety Code, and repealing Chapter 504 of that code apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 6. This Act takes effect on June 1, 2005, if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary to take effect on that date, this Act takes effect September 1, 2005.