

Components of 2005/2006 Enacted State Legislation – Regulation and Scheduling of Ephedrine & Pseudoephedrine

Legislative Specifics	Arkansas Act 256	Iowa SF 169	Kentucky SB 63	Mississippi HB 607	South Dakota SB 221	Tennessee SB 2318	Wyoming HB 293
State scheduled ephedrine/pseudoephedrine prior to current legislative session	Ephedrine – Sched. V	Ephedrine – Sched. V			Ephedrine – Sched. III		
State had point of sale restrictions on ephedrine/pseudoephedrine prior to current legislative session	Quantity and packaging restrictions	Quantity and display/offer restrictions					
Ephedrine/Pseudoephedrine products included in Schedule V	Ephedrine, pseudoephedrine and phenylpropanolamine	Ephedrine, pseudoephedrine and phenylpropanolamine					
Products exempted from Schedule V classification	YES ¹						
Ephedrine/Pseudoephedrine products must be sold by a pharmacist/pharmacy technician	YES ^{2,3}	YES ⁶	YES ^{7,8}			YES ^{17,18}	
Single transaction quantity limitation	Unlawful to purchase/sell more than three packages of one or more products or any single package that has more than 96 pills or more than 3 grams ³		Unlawful to purchase more than three packages ^{3,9}	Unlawful to purchase/sell more than two packages or more than six grams	Unlawful to purchase/sell more than two packages of a product containing ephedrine or pseudoephedrine		Unlawful to sell more than two packages
24-hour quantity limitation		Unlawful to purchase/sell more than one package of a product containing pseudoephedrine					
30-day quantity limitation	Unlawful to purchase more than 5 grams ephedrine or 9 grams pseudoephedrine	Unlawful to purchase/sell more than 7.5 grams of pseudoephedrine	Unlawful to purchase any product containing more than nine grams unless pursuant to prescription ^{3,9}	Unlawful to purchase more than nine grams unless pursuant to prescription		Unlawful to sell more than three packages or nine grams unless pursuant to prescription ¹⁹	

Components of 2005/2006 Enacted State Legislation – Regulation and Scheduling of Ephedrine & Pseudoephedrine

Legislative Specifics	Arkansas Act 256	Iowa SF 169	KY SB 63	MS HB 607	SD SB 221	Tennessee SB 2318	Wyoming HB 293
Packaging restrictions	Product must be sold in packages of three grams or less and in blister packs with each blister containing no more than two doses ^{3,4} .			Unlawful to sell single packages containing more than three grams			Product must be sold in packages of three grams or less and in blister packs with each blister containing no more than two doses ^{4,14}
Display Restrictions		Place pseudoephedrine products in a locked case or behind counter	Products must be stored in a locked case or behind a counter ¹⁰		Products must be stored in a locked case or behind a counter ^{11, 12, 13}	Non-exempt products must be stored behind the pharmacy counter or in a locked case within 25 feet of the counter	Product must either be placed behind a counter, placed in a locked case, placed within 30 feet and in direct sight line of a register or staffed counter or placed under constant surveillance ^{15,16}
Purchaser required to sign written or electronic log	YES	YES	YES			YES ²⁰	
Proof of identity required to purchase	YES	YES	YES	YES		YES	
Age requirement	Must be 18 or older to purchase ³		Must be 18 or older to purchase ^{3,9}				
Pharmacies/Retailers required to maintain transaction records	YES	Logbook must be maintained for 12 months after last entry	Log must be kept for two years and each sale entry must be initialed by the seller	Wholesalers must retain sales receipts for no less than one year		Pharmacies are required to maintain either an electronic record or a written register ²¹	
Exemptions from record-keeping requirements	YES ⁵						

Components of 2005/2006 Enacted State Legislation – Regulation and Scheduling of Ephedrine & Pseudoephedrine

Registration requirements							Resident and nonresident retailers must register with the board ³
Suspicious transactions must be reported	YES						
Retailer/Employee immunity for reporting suspicious sales		YES (Civil)					
Retailer immunity for providing employee training				YES (Criminal)			
Retailer/Employee immunity for injuries resulting from sales of regulated products					YES (Civil)		
Posting of State law required in retail locations		YES			YES		
State law preempts local laws/ordinances		YES	YES		YES	YES	

1. Schedule V classification does not apply to certain pediatric products, liquid, liquid capsule or liquid gel capsule products and products that are dispensed pursuant to a valid prescription. Wholesale distributors with exclusive rights to distribute pseudoephedrine to licensed pharmacies are exempt from Schedule V requirements for storage and distribution purposes.
2. OTC sales are allowable if it has been determined that the product cannot be converted into methamphetamine or the product is in liquid, liquid capsule or liquid gel capsule form and is sold no more than three packages at a time (with each package containing no more than 96 pills or more than three grams of ephedrine or pseudoephedrine).
3. This restriction applies to products containing ephedrine, pseudoephedrine and phenylpropanolamine.
4. Unit doses are permissible if blister packs are not feasible.
5. OTC sales are exempt if the drug is sold in blister packs (two or fewer doses per blister) containing no more than three grams OR the drug is liquid, liquid gel or liquid gel capsule and is sold in package sizes of no more than three grams. In both cases, the total quantity of the sale cannot exceed three packages or five grams of ephedrine/nine grams of pseudoephedrine (whichever is smaller).
6. Products that contain 360 mg or less of pseudoephedrine and come in liquid, liquid capsule, or liquid-filled gel capsule may be sold by an employee other than a pharmacy employee.
7. This applies to any nonprescription compound, mixture or preparation containing any detectable quantity of ephedrine, pseudoephedrine or phenylpropanolamine.
8. In addition to pharmacists and pharmacy technicians, products may also be sold by pharmacy interns.
9. Restriction does not apply to products in liquid, liquid capsule or gel capsule form, or other products deemed not to be subject to abuse.
10. This restriction applies to sole-active ingredient ephedrine/pseudoephedrine products. Multi-active products must be stored behind a counter, within 30 feet of the cashiers, in a locked case or be under video surveillance.

Components of 2005/2006 Enacted State Legislation – Regulation and Scheduling of Ephedrine & Pseudoephedrine

11. Retailer can use anti-theft devices on lieu of the locked case/counter restriction.
12. The sole-active ingredient display restrictions do not apply to liquid/gelcap products or certain pediatric products.
13. Multi-active ingredient products must have anti-theft devices or be displayed within 20 feet of a counter that allows an attendant to view the product in an unobstructed manner. This restriction does not apply to liquid/gelcap products or certain pediatric products.
14. Restriction applies to non-liquid methamphetamine precursors and liquid products that contain ephedrine or pseudoephedrine as the sole-active ingredient.
15. If the 30 foot option is used, the store must also have a reliable alarm system to prevent theft of multiple packages.
16. If the video surveillance option is used, the persons examining packages must be within the camera's view, the camera must record a image at least once every 10 seconds, images must be preserved for at least 168 hours, retailers must post signs alerting customers that the area is under surveillance and the distributor must report thefts and suspected thefts.
17. Products may only be sold in a licensed pharmacy and restriction applies to products containing any immediate precursor to methamphetamine.
18. Liquid preparations and gelcaps are exempted as are products whose ingredients are not in a form that can be used in the manufacture of methamphetamine.
19. Nine gram limitation applies to total amount of base ephedrine or pseudoephedrine, NOT the overall product weight.
20. Purchasers are only required to sign a register if the pharmacy chooses to maintain a register in lieu of an electronic record.
21. Written registers must be maintained for at least one year.

NOTES

This chart is intended for educational purposes and you should not act or rely on the information contained herein without first seeking the advice of an attorney within your jurisdiction.

The categories listed on this chart are limited so as to provide a comparative perspective of newly enacted legislation. Please note that there are provisions in the listed bills/acts that are not summarized in this chart. Additionally, there may be relevant information in existing statutes and/or bills that have not yet passed—that information is not included in this comparison as the chart's scope is limited to newly enacted legislation from the current 2005/2006 session.