

SENATE BILL No. 515

By Committee on Judiciary

2-5

AN ACT concerning controlled substances; relating to methamphetamine and other substances; prohibited acts and penalties therefor; amending K.S.A. 2001 Supp. 21-3718, 65-4152 and 65-7006 and repealing the existing sections.

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

New Section 1. (a) Except as otherwise provided, no person shall deliver in any single over-the-counter sale more than three packages of any methamphetamine precursor drug or any combination of methamphetamine precursor drugs.

(b) The provisions of this section shall not apply to any product labeled pursuant to federal regulation for use only in children under 12 years of age, or to any products that the state department of health and environment, upon application of a manufacturer, exempts by rule and regulation from this section because the product has been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine, or its salts or precursors.

(c) Any person who is considered the general owner or operator of the outlet where ephedrine, pseudoephedrine or phenylpropanolamine products are available for sale who violates subsection (a) shall not be penalized pursuant to this section if such person documents that an employee training program was in place to provide the employee with information on the state and federal rules and regulations regarding ephedrine, pseudoephedrine or phenylpropanolamine.

(d) As used in this section, "methamphetamine precursor drug" means any drug containing ephedrine, pseudoephedrine, phenylpropanolamine or any of their salts, optical isomers or salts of optical isomers.

(e) Any person who knowingly or recklessly violates any provision of this section is guilty of a class A nonperson misdemeanor.

Sec. 2. K.S.A. 2001 Supp. 21-3718 is hereby amended to read as follows: 21-3718. (a) Arson is: (1) Knowingly, by means of fire or explosive:

~~(1)~~ (A) Damaging any building or property which is a dwelling in which another person has any interest without the consent of such other person;

~~(2)~~ (B) damaging any building or property which is a dwelling with

1 intent to injure or defraud an insurer or lienholder;
2 ~~(3)~~ (C) damaging any building or property which is not a dwelling in
3 which another person has any interest without the consent of such other
4 person; or

5 ~~(4)~~ (D) damaging any building or property which is not a dwelling
6 with intent to injure or defraud an insurer or lienholder; or

7 (2) *accidentally, by means of fire or explosive as a result of manufac-*
8 *turing or attempting to manufacture a controlled substance in violation*
9 *of K.S.A. 65-4159, and amendments thereto, damaging any building or*
10 *property.*

11 (b) (1) Arson, as described in ~~subsections~~ *subsection (a)(1)(A) or (2)*
12 *, (a)(1)(B) or (a)(2), is a severity level 6, person felony.*

13 (2) Arson, as described in ~~subsections (a)(3) or (4)~~ *subsection*
14 *(a)(1)(C) or (a)(1)(D), is a severity level 7, nonperson felony.*

15 Sec. 3. K.S.A. 2001 Supp. 65-4152 is hereby amended to read as
16 follows: 65-4152. (a) No person shall use or possess with intent to use:

17 (1) Any simulated controlled substance;

18 (2) any drug paraphernalia to use, store, contain, conceal, inject, in-
19 gest, inhale or otherwise introduce into the human body a controlled
20 substance in violation of the uniform controlled substances act;

21 (3) any drug paraphernalia to plant, propagate, cultivate, grow, har-
22 vest, manufacture, compound, convert, produce, process, prepare, test,
23 analyze, pack, repack, sell or distribute a controlled substance in violation
24 of the uniform controlled substances act; or

25 (4) anhydrous ammonia ~~for the illegal production of a controlled sub-~~
26 ~~stance~~ *or pressurized ammonia* in a container not approved for that chem-
27 ical by the Kansas department of agriculture.

28 (b) Violation of ~~subsections~~ *subsection (a)(1) or (a)(2)* is a class A
29 nonperson misdemeanor.

30 (c) Violation of subsection (a)(3), other than as described in para-
31 graph (d), or subsection (a)(4) is a drug severity level 4 felony.

32 (d) Violation of subsection (a)(3) which involves the possession of
33 drug paraphernalia for the planting, propagation, growing or harvesting
34 of less than five marijuana plants is a class A nonperson misdemeanor.

35 Sec. 4. K.S.A. 2001 Supp. 65-7006 is hereby amended to read as
36 follows: 65-7006. (a) It shall be unlawful for any person to possess ephed-
37 rine, pseudoephedrine, *red phosphorus, lithium metal, sodium metal, io-*
38 *dine, anhydrous ammonia, pressurized ammonia* or phenylpropanolam-
39 ine, or their salts, isomers or salts of isomers with intent to use the product
40 ~~as a precursor to any illegal~~ *to manufacture a controlled substance.*

41 (b) It shall be unlawful for any person to market, sell, distribute, ad-
42 vertise, or label any drug product containing ephedrine, pseudoephed-
43 rine, *red phosphorus, lithium metal, sodium metal, iodine, anhydrous am-*

1 *monia, pressurized ammonia* or phenylpropanolamine, or their salts,
2 isomers or salts or isomers if the person knows or reasonably should know
3 that the purchaser will use the product ~~as a precursor to any illegal~~ *to*
4 *manufacture a controlled* substance.

5 (c) It shall be unlawful for any person to market, sell, distribute, ad-
6 vertise or label any drug product containing ephedrine, pseudoephedrine,
7 or phenylpropanolamine, or their salts, isomers or salts of isomers for
8 indication of stimulation, mental alertness, weight loss, appetite control,
9 energy or other indications not approved pursuant to the pertinent federal
10 over-the-counter drug final monograph or tentative final monograph or
11 approved new drug application.

12 (d) A violation of this section shall be a drug severity level ± 2 felony.
13 Sec. 5. K.S.A. 2001 Supp. 21-3718, 65-4152 and 65-7006 are hereby
14 repealed.

15 Sec. 6. This act shall take effect and be in force from and after its
16 publication in the statute book.

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