

The following are excerpts from the Uniform Controlled Substances Act that pertain to the sale of a methamphetamine precursor:

28-456. Phenylpropanolamine or pseudoephedrine; sold without a prescription; requirements; enforcement.

- (1) Any drug products containing phenylpropanolamine, pseudoephedrine, or their salts, optical isomers, or salts of such optical isomers may be sold without a prescription only if they are:
- (a) Labeled and marketed in a manner consistent with the pertinent OTC Tentative Final or Final Monograph;
 - (b) Manufactured and distributed for legitimate medicinal use in a manner that reduces or eliminates the likelihood of abuse;
 - (c) Packaged as follows:
 - (i) Except for liquids, sold in package sizes of not more than three and six-tenths grams of pseudoephedrine base or three and six-tenths grams of phenylpropanolamine base, in blister packs, each blister containing not more than two dosage units, or if the use of blister packs is technically infeasible, in unit dose packets or pouches; and
 - (ii) For liquids, sold in package sizes of not more than three and six-tenths grams of pseudoephedrine base or three and six-tenths grams of phenylpropanolamine base;
 - (d) Sold by a person, eighteen years of age or older, in the course of his or her employment to a customer, eighteen years of age or older, with the following restrictions:
 - (i) No customer shall be allowed to purchase, receive, or otherwise acquire more than three and six-tenths grams of pseudoephedrine base or three and six-tenths grams of phenylpropanolamine base during a twenty-four-hour period;
 - (ii) No customer shall purchase, receive, or otherwise acquire more than nine grams of pseudoephedrine base or nine grams of phenylpropanolamine base during a thirty-day period; and
 - (iii) The customer shall display a valid driver's or operator's license, a Nebraska state identification card, a military identification card, an alien registration card, or a passport as proof of identification; and
 - (e) Stored behind a counter, in an area not accessible to customers, or in a locked case so that a customer needs assistance from an employee to access the drug product.
- (2) Any person who sells drug products in violation of this section may be subject to a civil penalty of fifty dollars per day, and for a second or any subsequent violation, the penalty may be one hundred dollars per day. Any such drug products shall be seized and destroyed upon the finding of a violation of this section. The department, in conjunction with the Attorney General, the Nebraska State Patrol, and local law enforcement agencies, shall have authority to make inspections and investigations to enforce this section. In addition, the department may seek injunctive relief for suspected violations of this section.

28-456.01. Pseudoephedrine or phenylpropanolamine; limitation on acquisition; violation; penalty. (Operative Date January 1, 2012)

- (1) No person shall purchase, receive, or otherwise acquire, other than wholesale acquisition by a retail business in the normal course of its trade or business, any drug product containing more than three and six-tenths grams of pseudoephedrine base or three and six-tenths grams of phenylpropanolamine base during a twenty-four-hour period unless purchased pursuant to a medical order. Any person who violates this section shall be guilty of a Class IV misdemeanor for the first offense and a Class III misdemeanor for each subsequent offense.
- (2) No person shall purchase, receive, or otherwise acquire, other than wholesale acquisition by a retail business in the normal course of its trade or business, any drug product containing more than nine grams of pseudoephedrine base or nine grams of phenylpropanolamine base during a thirty-day period unless purchased pursuant to a medical order. Any person who violates this section shall be guilty of a Class IV misdemeanor for the first offense and a Class III misdemeanor for each subsequent offense.

Source: Laws 2005, LB 117, § 6; Laws 2009, LB151, § 3; Laws 2011, LB20, § 8. Operative Date: January 1, 2012.

28-458. Methamphetamine precursor; terms, defined. For purposes of sections 28-458 to 28-462:

- (1) Exchange means the National Precursor Log Exchange administered by the National Association of Drug Diversion Investigators;
- (2) Methamphetamine precursor means any drug product containing ephedrine, pseudoephedrine, or phenylpropanolamine that is required to be documented pursuant to the logbook requirements of 21 U.S.C. 830;
- (3) Seller means any person who lawfully sells a methamphetamine precursor pursuant to subdivision (1)(d) of section 28-456 or his or her employer; and
- (4) Stop-sale alert means a notification sent to a seller indicating that the completion of a methamphetamine precursor sale would result in a violation of subdivision (1)(d)(i) or (ii) of section 28-456.

Source: Laws 2011, LB20, § 3. Operative Date: January 1, 2012.

28-459. Methamphetamine precursor; seller; duties; waiver authorized. (1) Beginning January 1, 2012, each seller shall, before completing a sale of a methamphetamine precursor, electronically submit required information to the exchange, if the exchange is available to sellers. Required information shall include, but not be limited to:

- (a) The name, age, and address of the person purchasing, receiving, or otherwise acquiring the methamphetamine precursor;
- (b) The name of the product and quantity of product purchased;
- (c) The date and time of the purchase;
- (d) The name or initials of the seller who sold the product; and
- (e) The type of identification presented by the customer, the governmental entity that issued the identification, and the number on the identification.

(2) If a seller experiences mechanical or electronic failure of the electronic logging equipment on the sales end of the transaction or a failure of the exchange and is unable to comply with subsection (1) of this section, the seller shall maintain a written log or an alternative electronic recordkeeping mechanism or may refrain from selling any methamphetamine precursor until such time as the seller is able to comply with subsection (1) of this section.

(3) The Attorney General may grant a waiver exempting a seller from compliance with subsection (1) of this section upon a showing of good cause by the seller that he or she is otherwise unable to submit log information by electronic means, including, but not limited to, any financial, technological, or other reason which would place an undue burden on the seller, as established by the Attorney General.

(4) Whenever the exchange generates a stop-sale alert, the seller shall not complete the sale unless the seller has a reasonable fear of imminent bodily harm if he or she does not complete the sale. The exchange shall contain an override function to the stop-sale alert for the seller to use in a situation in which a reasonable fear of imminent bodily harm is present.

(5) This section does not apply if a lawful prescription for the methamphetamine precursor is presented to a pharmacist licensed under the Uniform Credentialing Act.

Source: Laws 2011, LB20, § 4. Operative Date: January 1, 2012.

28-460. Methamphetamine precursor; access to exchange to law enforcement. As a condition of use in Nebraska, the National Association of Drug Diversion Investigators shall provide real-time access to the exchange through its online portal to law enforcement in this state as authorized by the Attorney General and no fee or charge shall be imposed on a seller for the use of the exchange.

Source: Laws 2011, LB20, § 5. Operative Date: January 1, 2012.

28-461. Methamphetamine precursor; seller; immunity. A seller utilizing in good faith sections 28-458 to 28-462 shall be immune from any civil cause of action based upon an act or omission in carrying out such sections.

Source: Laws 2011, LB20, § 6. Operative Date: January 1, 2012.

28-462. Methamphetamine precursor; prohibited acts; penalty. Beginning January 1, 2013, a seller that knowingly fails to submit methamphetamine precursor information to the exchange as required by sections 28-458 to 28-462 or knowingly submits incorrect information to the exchange shall be guilty of a Class IV misdemeanor.

Source: Laws 2011, LB20, § 7. Operative Date: January 1, 2012.