

## **HB363 (April 24, 2012)**

**Amends Sections 13A-12-212, 13A-12-260, 20-2-72, 20-2-190; add section 20-2-190.2**

**further regulate the sale of over-the counter products containing certain quantities of ephedrine or pseudoephedrine  
enhance existing criminal penalties for violations  
revise the membership of the Alabama Drug Abuse Task Force  
require the Alabama Criminal Justice information center to implement an electronic drug offender tracking system  
henceforth, ephedrine and pseudoephedrine products will be available only from a licensed pharmacy  
provide specific penalties for certain uses of drug paraphernalia in violation of the controlled substances law of this state.**

### **13A-12-212**

Expands the crime of unlawful possession of a controlled substance to now include individuals who by fraud, deceit or misrepresentation obtain a precursor chemical most notably ephedrine and pseudoephedrine.

Unlawful possession of a controlled substance is a Class C felony.

### **13A-12-260**

Creates a new provision that makes it unlawful for any person to use, manufacture or possess "drug paraphernalia" to manufacture a controlled substance. The precursor chemicals of ephedrine and pseudoephedrine are included as drug paraphernalia.

Any violation of this section is Class C felony unless a person in violation of this section is in possession of a firearm at the time of the offense, the person shall be guilty of a Class B felony.

## **20-2-72**

Creates new provisions that make it unlawful to furnish false or fraudulent information for any report or document required to be kept by law (such as by a pharmacy.)

Violations of this section are a class B felony.

## **20-2-190**

Creates a new provision that a person commits an offense who furnishes or attempts to solicit another person to possess or sell ephedrine or pseudoephedrine with the knowledge or intent the substance will be used in the unlawful manufacture of a controlled substance. An offense under this section is a Class B felony.

Provides that ephedrine and pseudoephedrine may only be sold from a pharmacy licensed by the Alabama Board of Pharmacy and must be sold within the pharmacy must be sold by an individual licensed as a pharmacist or by an employee of the pharmacy under the supervision of a licensed pharmacist.

Provides that all packages of tablets containing ephedrine or pseudoephedrine are to be placed and stored behind a counter within the pharmacy where the public is not permitted.

Lowers the total amount of grams a person may purchase ephedrine or pseudoephedrine per 30 day from nine to 7.5 grams.

Tightens the identification requirements for purchasers - previously just required a "government issued photographic identification" now requires a valid, unsuspended driver's license or nondriver identification card or a U.S. Uniformed Services Privilege and ID card or a U.S. or foreign passport. Each purchaser is to sign a record of each transaction.

Provides that any person who resides within any state that requires a prescription for the purchase of ephedrine or pseudoephedrine may

purchase those products here in Alabama only upon the presentation of a valid prescription.

Establishes the creation, through the Alabama Criminal Justice Information System, of a drug abuse information system to include data regarding illegal drug manufacture, trafficking, distribution and usage across the state.

Adds provisions for restitution for violations of these sections - directed at clean-up costs that may result from the investigation and prosecutors of violators.

### **20-2-190.2 (new section being added)**

Effective Jan. 1, 2013, the Alabama Criminal Justice Information Center shall implement a real-time electronic drug offender tracking system to catalogue all criminal convictions in this state of persons convicted of felonies or misdemeanors involving the possession, distribution, manufacture or trafficking of controlled substances.

A drug offender convicted of possession of a controlled substance or drug paraphernalia is to remain in the drug offender tracking system for seven years beginning with each conviction.

A drug offender convicted of manufacture, distribution, or trafficking of controlled substances shall remain in the drug offender tracking system for ten years beginning with each conviction.

The electronic drug offender tracking system shall have the technological capability to receive ephedrine and pseudoephedrine sales data from pharmacies, at no charge to the pharmacies.

Effective Jan. 1, 2013, before completing a sale of a product covered by this section, a pharmacy shall submit the required information to the electronic drug offender tracking system.

Effective Aug. 1, 2012, a drug offender convicted of possession of a controlled substance or paraphernalia shall be prohibited from the retail or prescription purchase of ephedrine or pseudoephedrine for the entire

seven years the person is required to be included in the drug offender tracking system.

A drug offender convicted of manufacture, distribution, or trafficking of controlled substances shall be prohibited from the retail or prescription purchase of any ephedrine or pseudoephedrine for the entire ten years the person is required to be included in the drug offender tracking system.

A drug offender who knowingly and unlawfully purchases or attempts, solicits another, or conspires to purchase ephedrine or pseudoephedrine is guilty of a Class A misdemeanor, except for a subsequent conviction wherein he/she would be guilty of a Class C felony.