

1 **Senate Bill No. 346**

2 (By Senators Foster, Laird, McCabe, Jenkins, Kessler (Mr.
3 President), Stollings and Edgell)

4 _____
5 [Introduced January 19, 2012; referred to the Committee on Health
6 and Human Resources; and then to the Committee on Finance.]

7 _____
8 **FISCAL**
9 **NOTE**

10 A BILL to repeal §60A-10-5 and §60A-10-8 of the Code of West
11 Virginia, 1931, as amended; to amend and reenact §60A-2-210
12 and §60A-2-212 of said code; to amend and reenact §60A-10-2,
13 §60A-10-3, §60A-10-4, §60A-10-6, §60A-10-7 and §60A-10-11 of
14 said code; and to amend said code by adding thereto a new
15 section, designated §60A-10-16, all relating to enacting The
16 Larry Border Act; requiring a prescription to dispense drug
17 products that contain ephedrine, pseudoephedrine,
18 phenylpropanolamine or other precursors of methamphetamine as
19 an active ingredient; recategorizing these drugs from Schedule
20 V to Schedule IV; eliminating the pediatric exemption;
21 deleting certain provisions and definitions that are no longer
22 applicable; making additional findings; exempting wholesalers
23 from certain requirements of the United States Drug

1 Enforcement Administration relating to storage, reporting,
2 record-keeping or physical security control requirements for
3 controlled substances containing ephedrine, pseudoephedrine or
4 phenylpropanolamine; providing penalties; adding affirmative
5 defenses; permitting the Board of Pharmacy to exempt certain
6 products from prescription requirements; and requiring the
7 Superintendent of the State Police to submit a report by
8 December 1, 2012.

9 *Be it enacted by the Legislature of West Virginia:*

10 That §60A-10-5 and §60A-10-8 of the Code of West Virginia,
11 1931, as amended, be repealed; that §60A-2-210 and §60A-2-212 of
12 said code be amended and reenacted; that §60A-10-2, §60A-10-3,
13 §60A-10-4, §60A-10-6, §60A-10-7 and §60A-10-11 of said code be
14 amended and reenacted; and that said code be amended by adding
15 thereto a new section, designated §60A-10-16, all to read as
16 follows:

17 **ARTICLE 2. STANDARDS AND SCHEDULES.**

18 **§60A-2-210. Schedule IV.**

19 (a) Schedule IV shall consist of the drugs and other
20 substances, by whatever official name, common or usual name,
21 chemical name, or brand name designated, listed in this section.

22 (b) *Narcotic drugs.* -- Unless specifically excepted or unless
23 listed in another schedule, any material, compound, mixture, or

1 preparation containing any of the following narcotic drugs, or
2 their salts calculated as the free anhydrous base or alkaloid, in
3 limited quantities as set forth below:

4 (1) Not more than 1 milligram of difenoxin and not less than
5 25 micrograms of atropine sulfate per dosage unit;

6 (2) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1,
7 2-diphenyl-3-methyl-2-propionoxybutane).

8 (c) *Depressants*. -- Unless specifically excepted or unless
9 listed in another schedule, any material, compound, mixture or
10 preparation which contains any quantity of the following
11 substances, including its salts, isomers and salts of isomers
12 whenever the existence of such salts, isomers and salts of isomers
13 is possible within the specific chemical designation:

14 (1) Alprazolam;

15 (2) Barbital;

16 (3) Bromazepam;

17 (4) Camazepam;

18 (5) Carisoprodol;

19 (6) Chloral betaine;

20 (7) Chloral hydrate;

21 (8) Chlordiazepoxide;

22 (9) Clobazam;

23 (10) Clonazepam;

- 1 (11) Clorazepate;
- 2 (12) Clotiazepam;
- 3 (13) Cloxazolam;
- 4 (14) Delorazepam;
- 5 (15) Diazepam;
- 6 (16) Estazolam;
- 7 (17) Ethchlorvynol;
- 8 (18) Ethinamate;
- 9 (19) Ethyl loflazepate;
- 10 (20) Fludiazepam;
- 11 (21) Flunitrazepam;
- 12 (22) Flurazepam;
- 13 (23) Halazepam;
- 14 (24) Haloxazolam;
- 15 (25) Ketazolam;
- 16 (26) Loprazolam;
- 17 (27) Lorazepam;
- 18 (28) Lormetazepam;
- 19 (29) Mebutamate;
- 20 (30) Medazepam;
- 21 (31) Meprobamate;
- 22 (32) Methohexital;
- 23 (33) Methylphenobarbital (mephobarbital);

- 1 (34) Midazolam;
- 2 (35) Nimetazepam;
- 3 (36) Nitrazepam;
- 4 (37) Nordiazepam;
- 5 (38) Oxazepam;
- 6 (39) Oxazolam;
- 7 (40) Paraldehyde;
- 8 (41) Petrichloral;
- 9 (42) Phenobarbital;
- 10 (43) Pinazepam;
- 11 (44) Prazepam;
- 12 (45) Quazepam;
- 13 (46) Temazepam;
- 14 (47) Tetrazepam;
- 15 (48) Triazolam;
- 16 (49) Zolpidem.

17 (d) *Fenfluramine*. Any material, compound, mixture or
18 preparation which contains any quantity of the following substance,
19 including its salts, isomers (whether optical, position or
20 geometric) and salts of such isomers whenever the existence of such
21 salts, isomers and salts of isomers is possible: *Fenfluramine*.

22 (e) *Stimulants*. -- Unless specifically excepted or unless
23 listed in another schedule, any material, compound, mixture or

1 preparation which contains any quantity of the following substances
2 having a stimulant effect on the central nervous system, including
3 its salts, isomers and salts of isomers:

4 (1) Cathine ((+)-norpseudoephedrine);

5 (2) Diethylpropion;

6 (3) Fencamfamin;

7 (4) Fenproporex;

8 (5) Mazindol;

9 (6) Mefenorex;

10 (7) Pemoline (including organometallic complexes and chelates
11 thereof);

12 (8) Phentermine;

13 (9) Pipradrol; and

14 (10) SPA ((-)-1-dimethylamino-1,2-diphenylethane).

15 (f) Any compound, mixture or preparation containing as an
16 active ingredient ephedrine, pseudoephedrine or
17 phenylpropanolamine, their salts or optical isomers, or salts of
18 optical isomers: Provided, That neither the offenses set forth in
19 section four hundred one, article four of this chapter, nor the
20 penalties therein, shall be applicable to ephedrine,
21 pseudoephedrine or phenylpropanolamine which shall be subject to
22 article ten of this chapter.

23 ~~(f)~~ (g) Other substances. -- Unless specifically excepted or

1 unless listed in another schedule, any material, compound, mixture
2 or preparation which contains any quantity of the following
3 substances, including its salts:

4 (1) Pentazocine;

5 (2) Butorphanol.

6 Amyl nitrite, butyl nitrite, isobutyl nitrite and the other
7 organic nitrites are controlled substances and no product
8 containing these compounds as a significant component shall be
9 possessed, bought or sold other than pursuant to a bona fide
10 prescription or for industrial or manufacturing purposes.

11 **§60A-2-212. Schedule V.**

12 (a) Schedule V shall consist of the drugs and other
13 substances, by whatever official name, common or usual name,
14 chemical name, or brand name designated, listed in this section.

15 (b) *Narcotic drugs.* -- Unless specifically excepted or unless
16 listed in another schedule, any material, compound, mixture or
17 preparation containing any of the following narcotic drugs and
18 their salts, as set forth below:

19 (1) Buprenorphine.

20 (c) Narcotic drugs containing nonnarcotic active medicinal
21 ingredients. Any compound, mixture or preparation containing any
22 of the following narcotic drugs or their salts calculated as the
23 free anhydrous base or alkaloid in limited quantities as set forth

1 below, which shall include one or more nonnarcotic active medicinal
2 ingredients in sufficient proportion to confer upon the compound,
3 mixture or preparation valuable medicinal qualities other than
4 those possessed by the narcotic drug alone:

5 (1) Not more than 200 milligrams of codeine per 100
6 milliliters or per 100 grams;

7 (2) Not more than 100 milligrams of dihydrocodeine per 100
8 milliliters or per 100 grams;

9 (3) Not more than 100 milligrams of ethylmorphine per 100
10 milliliters or per 100 grams;

11 (4) Not more than 2.5 milligrams of diphenoxylate and not less
12 than 25 micrograms of atropine sulfate per dosage unit;

13 (5) Not more than 100 milligrams of opium per 100 milliliters
14 or per 100 grams;

15 (6) Not more than 0.5 milligrams of difenoxin and not less
16 than 25 micrograms of atropine sulfate per dosage unit.

17 (d) *Stimulants*. -- Unless specifically exempted or excluded or
18 unless listed in another schedule, any material, compound, mixture
19 or preparation which contains any quantity of the following
20 substances having a stimulant effect on the central nervous system,
21 including its salts, isomers and salts of isomers:

22 (1) Pyrovalerone.

23 ~~(e) Any compound, mixture or preparation containing as its~~

1 ~~single active ingredient ephedrine, pseudoephedrine or~~
2 ~~phenylpropanolamine, their salts or optical isomers, or salts of~~
3 ~~optical isomers except products which are for pediatric use~~
4 ~~primarily intended for administration to children under the age of~~
5 ~~twelve: *Provided*, That neither the offenses set forth in section~~
6 ~~four hundred one, article four of this chapter, nor the penalties~~
7 ~~therein, shall be applicable to ephedrine, pseudoephedrine or~~
8 ~~phenylpropanolamine which shall be subject to the provisions of~~
9 ~~article ten of this chapter.~~

10 **ARTICLE 10. METHAMPHETAMINE LABORATORY ERADICATION ACT.**

11 **§60A-10-2. Purpose; findings.**

12 The Legislature finds:

13 (a) That the illegal production and distribution of
14 methamphetamine is an increasing problem nationwide and
15 particularly prevalent in rural states such as West Virginia.

16 (b) That methamphetamine is a highly addictive drug that can
17 be manufactured in small and portable laboratories. These
18 laboratories are operated by individuals who manufacture the drug
19 in a clandestine and unsafe manner, often resulting in explosions
20 and fires that can injure not only the individuals involved, but
21 their families, neighbors, law-enforcement officers and ~~firemen~~
22 firefighters.

23 (c) That use of methamphetamine can result in fatal kidney and

1 lung disorders, brain damage, liver damage, blood clots, chronic
2 depression, hallucinations, violent and aggressive behavior,
3 malnutrition, disturbed personality development, deficient immune
4 system and psychosis. Children born to mothers who are abusers of
5 methamphetamine can be born addicted and suffer birth defects, low
6 birth weight, tremors, excessive crying, attention deficit disorder
7 and behavior disorders.

8 (d) That in addition to the physical consequences to an
9 individual who uses methamphetamine, usage of the drug also
10 produces an increase in automobile accidents, explosions and fires,
11 increased criminal activity, increased medical costs due to
12 emergency room visits, increases in domestic violence, increased
13 spread of infectious diseases and a loss in worker productivity.

14 (e) That environmental damage is another consequence of the
15 methamphetamine epidemic. Each pound of methamphetamine produced
16 leaves behind five to six pounds of toxic waste. Chemicals and
17 byproducts that result from the manufacture of methamphetamine are
18 often poured into plumbing systems, storm drains or directly onto
19 the ground. Clean up of methamphetamine laboratories is extremely
20 resource-intensive, with an average remediation cost of \$5,000.

21 (f) That in other states which have required a prescription
22 for those products containing substances that are necessary to the
23 manufacturing of methamphetamine, there has been a significant

1 decrease in the number of methamphetamine laboratories found in
2 those states.

3 ~~(f)~~ (g) That it is in the best interest of every West
4 Virginian to develop a viable solution to address the growing
5 methamphetamine problem in the State of West Virginia. The
6 Legislature finds that restricting access to ~~over-the-counter~~ drugs
7 used to facilitate production of methamphetamine is necessary to
8 protect the public safety of all West Virginians.

9 ~~(g)~~ (h) That it is further in the best interests of every West
10 Virginian to create impediments to the manufacture of
11 methamphetamine by requiring persons purchasing chemicals necessary
12 to the process to ~~provide identification~~ have a lawful prescription
13 before purchasing.

14 **§60A-10-3. Definitions.**

15 In this article:

16 (a) "Board of Pharmacy" or "board" means the West Virginia
17 Board of Pharmacy established by ~~the provisions of~~ article five,
18 chapter thirty of this code.

19 (b) "Designated precursor" means any drug product made subject
20 to the requirements of this article ~~by the provisions~~ of section
21 seven of this article.

22 (c) "Distributor" means any person within this state or
23 another state, other than a manufacturer or wholesaler, who sells,

1 delivers, transfers or in any manner furnishes a drug product to
2 any person who is not the ultimate user or consumer of the product;

3 (d) "Drug product" means a pharmaceutical product that
4 contains as an ~~its—single~~ active ingredient ephedrine,
5 pseudoephedrine or phenylpropanolamine or a substance identified on
6 the supplemental list provided ~~for~~ in section seven of this article
7 which may be sold without a prescription and which is labeled for
8 use by a consumer in accordance with the requirements of the laws
9 and rules of this state and the federal government.

10 (e) "Ephedrine " means ephedrine, its salts or optical isomers
11 or salts of optical isomers.

12 (f) "Manufacturer" means any person within this state who
13 produces, compounds, packages or in any manner initially prepares
14 for sale or use any drug product or any such person in another
15 state if they cause the products to be compounded, packaged or
16 transported into this state.

17 (g) "Phenylpropanolamine" means phenylpropanolamine, its
18 salts, optical isomers and salts of optical isomers.

19 (h) "Pseudoephedrine" means pseudoephedrine, its salts,
20 optical isomers and salts of optical isomers.

21 (i) "Precursor" means any substance which may be used along
22 with other substances as a component in the production and
23 distribution of illegal methamphetamine.

1 (j) "Pharmacist" means an individual currently licensed by
2 this state to engage in the practice of ~~pharmacy and pharmaceutical~~
3 pharmacy care as defined in ~~subsection (t), section one-b,~~ article
4 ~~fifty five,~~ chapter thirty of this code.

5 (k) "Pharmacy intern" has the same meaning as the term
6 "intern" as set forth in ~~section one-b,~~ article five, chapter
7 thirty of this code.

8 (l) "Pharmacy" means any drugstore, apothecary or place within
9 this state where drugs are dispensed and sold at retail or display
10 for sale at retail and ~~pharmaceutical~~ pharmacist care is provided
11 outside of this state where drugs are dispensed and ~~pharmaceutical~~
12 pharmacy care is provided to residents of this state.

13 ~~(m) "Pharmacy counter" means an area in the pharmacy~~
14 ~~restricted to the public where controlled substances are stored and~~
15 ~~housed and where controlled substances may only be sold,~~
16 ~~transferred or dispensed by a pharmacist or pharmacy technician.~~

17 ~~(n)~~ (m) "Pharmacy technician" means a registered technician
18 who meets the requirements for registration as set forth in article
19 five, chapter thirty of this code.

20 ~~(o) "Retail establishment" means any entity or person within~~
21 ~~this state who sells, transfers or distributes goods, including~~
22 ~~over the counter drug products, to an ultimate consumer.~~

23 ~~(p)~~ (n) "Schedule ~~V~~ IV" means the schedule of controlled

1 substances set out in section two hundred ~~twelve~~ ten, section
2 article two of this chapter.

3 ~~(q) "Single active ingredient" means those ingredients listed~~
4 ~~on a drug product package as the only active ingredient in~~
5 ~~over-the-counter medication or identified on the Schedule~~
6 ~~maintained by the Board of Pharmacy as being primarily used in the~~
7 ~~illegal production and distribution of methamphetamine.~~

8 ~~(r)~~ (o) "Superintendent of the State Police" or
9 "Superintendent" means the Superintendent of the West Virginia
10 State Police as set forth in section five, article two, chapter
11 fifteen of this code.

12 ~~(s)~~ (p) "Wholesaler" means any person within this state or
13 another state, other than a manufacturer, who sells, transfers or
14 in any manner furnishes a drug product to any other person in this
15 state for the purpose of being resold.

16 **§60A-10-4. Purchase, receipt, acquisition and possession of**
17 **substances to be used as precursor to manufacture**
18 **of methamphetamine or another controlled**
19 **substance; offenses; exceptions; penalties.**

20 (a) Any person who within any thirty-day period knowingly
21 purchases, receives or otherwise possesses more than ~~three packages~~
22 ~~of a drug product~~ the amount prescribed in a single prescription
23 containing as ~~its single~~ an active ingredient ephedrine,

1 pseudoephedrine or phenylpropanolamine or more than nine grams of
2 ephedrine, pseudoephedrine or phenylpropanolamine in any form shall
3 be guilty of a misdemeanor and, upon conviction, shall be confined
4 in a jail for not more than one year, fined not more than \$1,000,
5 or both fined and confined, unless the person can provide an order
6 from a person authorized to prescribe controlled substances
7 explaining why the multiple prescriptions are medically necessary.

8 (b) Notwithstanding ~~the provisions of~~ subsection (a) of this
9 section, any person convicted of a second or subsequent violation
10 ~~of the provisions of~~ said subsection or a statute or ordinance of
11 the United States or another state which contains the same
12 essential elements shall be guilty of a felony and, upon
13 conviction, shall be confined in a state correctional facility for
14 not less than one nor more than five years, fined not more than
15 \$25,000, or both fined and confined.

16 (c) ~~The provisions of~~ Subsection (a) of this section ~~shall~~
17 does not apply to:

18 (1) Drug products which are for pediatric use primarily
19 intended for administration to children under the age of twelve;

20 (2) Drug products which have been determined by the Board of
21 Pharmacy to be in a form which is unamenable to being used for the
22 manufacture of methamphetamine;

23 (3) Persons lawfully possessing drug products in their

1 capacities as distributors, wholesalers, manufacturers,
2 pharmacists, pharmacy interns, pharmacy technicians, health care
3 professionals or persons possessing such drug products pursuant to
4 a valid prescription.

5 (d) Notwithstanding any provision of this code to the
6 contrary, any person who knowingly possesses any amount of
7 ephedrine, pseudoephedrine, phenylpropanolamine or other designated
8 precursor with the intent to use it in the manufacture of
9 methamphetamine or who knowingly possesses a substance containing
10 ephedrine, pseudoephedrine or phenylpropanolamine or their salts,
11 optical isomers or salts of optical isomers in a state or form
12 which is, or has been altered or converted from the state or form
13 in which these chemicals are, or were, commercially distributed
14 shall be guilty of a felony and, upon conviction, shall be confined
15 in a state correctional facility for not less than two nor more
16 than ten years, fined not more than \$25,000, or both confined and
17 fined.

18 (e) ~~(1)~~ Any pharmacy, wholesaler, manufacturer or distributor
19 of drug products containing as ~~their single~~ an active ingredient
20 ephedrine, pseudoephedrine, phenylpropanolamine, their salts or
21 optical isomers or salts of optical isomers or other designated
22 precursor shall obtain a registration annually from the State Board
23 of Pharmacy as described in section six of this article. ~~Any such~~

1 ~~pharmacy, wholesaler, manufacturer or distributor shall keep~~
2 ~~complete records of all sales and transactions as provided in~~
3 ~~section eight of this article. The records shall be gathered and~~
4 ~~maintained pursuant to legislative rule promulgated by the Board of~~
5 ~~Pharmacy.~~

6 (f) It is an affirmative defense to any offense in this
7 section that the person:

8 (1) Obtained the drug(s) containing ephedrine, pseudoephedrine
9 or phenylpropanolamine lawfully;

10 (2) Possessed no more than nine grams of ephedrine,
11 pseudoephedrine or phenylpropanolamine in any form; and

12 (3) Possessed products containing ephedrine, pseudoephedrine
13 or phenylpropanolamine for legitimate medical purposes for himself,
14 herself or his or her household and such possession was not for the
15 manufacture of methamphetamine.

16 ~~(2)~~ (g) Any drug products possessed without a registration as
17 provided in this section are subject to forfeiture upon conviction
18 for a violation of this section.

19 ~~(3)~~ (h) In addition to any administrative penalties provided
20 by law, any violation of this subsection is a misdemeanor,
21 punishable upon conviction by a fine in an amount not more than
22 \$10,000.

23 **\$60A-10-6. Registration to sell, manufacture or distribute**

1 **products; rule-making authority.**

2 The State Board of Pharmacy shall propose rules for
3 legislative approval in accordance with ~~the provisions of~~ article
4 three, chapter twenty-nine-a of this code to require that every
5 wholesaler, manufacturer or distributor of any drug product
6 containing as ~~their single~~ an active ingredient ephedrine or
7 pseudoephedrine or a substance identified on the supplemental list
8 provided ~~for~~ in section seven of this article shall obtain a
9 registration and permit issued by the State Board of Pharmacy to
10 sell, distribute or transfer the product containing as their single
11 active ingredient ephedrine, pseudoephedrine or
12 phenylpropanolamine.

13 **§60A-10-7. Restricted products; rule-making authority.**

14 (a) ~~On or before July 1, 2005,~~ The Board of Pharmacy shall
15 promulgate emergency and legislative rules pursuant to ~~the~~
16 ~~provision of~~ article three, chapter twenty-nine-a of this code to
17 implement a program wherein the Board of Pharmacy shall consult
18 ~~consults~~ with the Superintendent of the State Police in identifying
19 drug products which are a designated precursor, in addition to
20 those that contain as ~~their single~~ an active ingredient ephedrine,
21 pseudoephedrine or phenylpropanolamine, that are commonly being
22 used in the production and distribution of methamphetamine. Those
23 drug products which the Superintendent of the State Police have

1 demonstrated by empirical evidence are commonly used in the
2 manufacture of methamphetamine shall be added to a supplemental
3 list and ~~shall be~~ are subject to all of the restrictions of this
4 article. ~~These~~ The rules established pursuant to this section
5 shall include:

6 (1) A process whereby pharmacies are made aware of all drug
7 products that contain as ~~their single~~ an active ingredient
8 ephedrine, pseudoephedrine and phenylpropanolamine that will be
9 listed as a Schedule ~~V~~ IV substance; ~~and must be sold, transferred~~
10 ~~or dispensed from behind a pharmacy counter and~~

11 ~~(2) A process whereby pharmacies and retail establishments are~~
12 ~~made aware of additional drug products added to Schedule VIII that~~
13 ~~are required to be placed behind the pharmacy counter for sale,~~
14 ~~transfer or distribution can be periodically reviewed and updated.~~

15 (2) Wholesale drug distributors licensed by the Board of
16 Pharmacy and registered with, and regulated by, the United States
17 Drug Enforcement Administration are exempt from storage, reporting,
18 record-keeping or physical security control requirements for
19 products containing ephedrine, pseudoephedrine and
20 phenylpropanolamine.

21 ~~(b) At any time after July 1, 2005, the Board of Pharmacy,~~
22 ~~upon the recommendation of the superintendent of the State Police,~~
23 ~~shall promulgate emergency and legislative rules pursuant to the~~

1 ~~provision of article three, chapter twenty-nine-a of this code to~~
2 ~~implement an updated supplemental list of products containing the~~
3 ~~controlled substances ephedrine, pseudoephedrine or~~
4 ~~phenylpropanolamine as an active ingredient or any other drug used~~
5 ~~as a precursor in the manufacture of methamphetamine, which the~~
6 ~~superintendent of the State Police has demonstrated by empirical~~
7 ~~evidence is being used in the manufacture of methamphetamine. This~~
8 ~~listing process shall comport with the requirements of subsection~~
9 ~~(a) of this section.~~

10 (b) The Board of Pharmacy may exempt from the prescription
11 requirements for products containing as an active ingredient
12 ephedrine, pseudoephedrine or phenylpropanolamine enacted during
13 the 2012 Regular Session of the Legislature, any product which it
14 empirically determines contains such controlled substances in a
15 compound or form which makes it unable to be used in the
16 manufacturing of methamphetamine. The board shall make pharmacists
17 aware of any products which no longer require a prescription.

18 **§60A-10-11. Reporting to the Legislative Oversight Commission on**
19 **Health and Human Resources Accountability.**

20 On or before ~~the first day of December, two thousand five~~
21 December 1, 2012, the Superintendent of the West Virginia State
22 Police shall submit a report including findings, conclusions and
23 recommendations, together with drafts of any legislation necessary,

1 to improve the effectiveness of a reduction in illegal
2 methamphetamine production and distribution to the Legislative
3 Oversight Commission on Health and Human Resources Accountability
4 for consideration.

5 **§60A-10-16. The Larry Border Act.**

6 The amendments to sections two hundred ten and two hundred
7 twelve, article two of this chapter and sections two, three, four,
8 six, seven and eleven of this article enacted during the 2012
9 regular session of the Legislature may collectively be known as
10 "The Larry Border Act."

NOTE: The purpose of the bill is to create "The Larry Border Act." The bill requires a prescription to dispense drug products that contain as an active ingredient ephedrine, pseudoephedrine and phenylpropanolamine. The bill recategorizes these drugs from Schedule V to Schedule IV. The bill removes the pediatric exemption. The bill deletes certain provisions and definitions that are no longer applicable. The bill makes additional findings. The bill exempts wholesalers from certain requirements of the United States Drug Enforcement Administration relating to storage, reporting, record-keeping or physical security control requirements for controlled substances containing ephedrine, pseudoephedrine or phenylpropanolamine. The bill permits the Board of Pharmacy to exempt certain products from prescription requirements. The bill requires the Superintendent of the State Police to submit a report by December 1, 2012. The bill also adds affirmative defenses and provides penalties.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

§60A-10-16 is new; therefore, strike-throughs and underscoring have been omitted.