COMMITTEE SUBSTITUTE

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Senate Bill No. 6

(By Senators Tucker, Kessler (Mr. President),
Stollings, Laird and Plymale)

[Originating in the Committee on the Judiciary;
reported February 13, 2014.]

A BILL to repeal §60A-10-8 of the Code of West Virginia, 1931, as amended; to amend and reenact §60A-2-210 and §60A-2-212 of said code; and to amend and reenact §60A-10-2, §60A-10-3, §60A-10-4, §60A-10-5 and §60A-10-7 of said code, all relating to the Methamphetamine Lab Eradication Act and the prevention of the production of methamphetamine generally; requiring certain drug products containing ephedrine, pseudoephedrine or phenylpropanolamine be obtained by

prescription only; moving said drug products from Schedule V to Schedule IV; distinguishing between schedule classifications; providing an exception for drug products that are extraction or conversion resistant; making legislative findings; defining terms; prohibiting pharmacies from selling certain drugs that can be used in the production of methamphetamine without a prescription; creating criminal offenses related to methamphetamine precursors and establishing penalties therefor; permitting the sale of certain drugs without a prescription where the Board of Pharmacy determines that the drugs are not feasible for being used for the manufacture of methamphetamine; reducing the maximum amounts persons are permitted to purchase of certain drugs that cannot feasibly be converted into methamphetamine; limiting authority of the Board of Pharmacy as to storage, recordkeeping and security requirements for wholesalers; adjusting the requirements of the Multi-State Real-Time Tracking System; removing certain outdated language; and providing rule-making authority to the Board of Pharmacy to

implement emergency and legislative rules, which will provide procedures as to which products may be sold over the counter and which require a prescription and other modifications necessary to implement the Methamphetamine Lab Eradication Act.

Be it enacted by the Legislature of West Virginia:

That §60A-10-8 of the Code of West Virginia, 1931, as amended, be repealed; that §60A-2-210 and §60A-2-212 of said code be amended and reenacted; and that §60A-10-2, §60A-10-3, §60A-10-4, §60A-10-5 and §60A-10-7 of said code be amended and reenacted, all to read as follows:

ARTICLE 2. STANDARDS AND SCHEDULES.

§60A-2-210. Schedule IV.

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

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

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

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

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

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

(1) Alprazolam;

(2) Barbital;

(3) Bromazepam;

(4) Camazepam;

(5) Carisoprodol;

(6) Chloral betaine;

(7) Chloral hydrate;

(8) Chlordiazepoxide;

(9) Clobazam;

(10) Clonazepam;

(11) Clorazepate;

(12) Clotiazepam;

(13) Cloxazolam;

(14) Delorazepam;

(15) Diazepam;

(16) Estazolam;

(17) Ethchlorvynol;

(18) Ethinamate;

(19) Ethyl loflazepate;

(20) Fludiazepam;

(21) Flunitrazepam;

(22) Flurazepam;

(23) Halazepam;

(24) Haloxazolam;

(25) Ketazolam;

(26) Loprazolam;

(27) Lorazepam;

(28) Lormetazepam;

(29) Mebutamate;

(30) Medazepam;

(31) Meprobamate;

(32) Methohexital;

(33) Methylphenobarbital (mephobarbital);

(34) Midazolam;

(35) Nimetazepam;

(36) Nitrazepam;

(37) Nordiazepam;

(38) Oxazepam;

(39) Oxazolam;

(40) Paraldehyde;

(41) Petrichloral;

(42) Phenobarbital;

(43) Pinazepam;

(44) Prazepam;

(45) Quazepam;

(46) Temazepam;

(47) Tetrazepam;

(48) Triazolam;

(49) Zolpidem.

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

(e) *Stimulants.* – Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

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

(2) Diethylpropion;

(3) Fencamfamin;

(4) Fenproporex;

(5) Mazindol;

(6) Mefenorex;

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

(8) Phentermine;

(9) Pipradrol;

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

(f) Any compound, mixture or preparation containing ephedrine, pseudoephedrine or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers except products which are for pediatric use primarily intended for administration to children under the age of twelve: *Provided*, That neither the offenses set forth in section four hundred one, article four of this chapter, nor the penalties therein, shall be applicable to ephedrine, pseudoephedrine or phenylpropanolamine, that shall be subject to the provisions of article ten of this chapter.

~~(f)~~ (g) *Other substances.* – Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts:

(1) Pentazocine;

(2) Butorphanol.

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

§60A-2-212. Schedule V.

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

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

mixture or preparation containing any of the following narcotic drugs and their salts, as set forth below:

(1) Buprenorphine.

(c) *Narcotic drugs containing nonnarcotic active medicinal ingredients*. – Any compound, mixture or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid in limited quantities as set forth below, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

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

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

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

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

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

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

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

~~(1)~~ Pyrovalerone.

~~(e) Any compound, mixture or preparation containing as its single active ingredient ephedrine, pseudoephedrine or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers except products which are for pediatric use primarily intended for administration to children under~~

~~the age of twelve: *Provided,* That neither the offenses set forth in section four hundred one, article four of this chapter, nor the penalties therein, shall be applicable to ephedrine, pseudoephedrine or phenylpropanolamine, which shall be subject to the provisions of article ten of this chapter.~~

ARTICLE 10. METHAMPHETAMINE LABORATORY ERADICATION ACT.

§60A-10-2. Purpose; findings.

The Legislature finds:

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

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

(c) That use of methamphetamine can result in fatal kidney and lung disorders, brain damage, liver damage, blood clots, chronic depression, hallucinations, violent and aggressive behavior, malnutrition, disturbed personality development, deficient immune system and psychosis. Children born to mothers who are abusers of methamphetamine can be born addicted and suffer birth defects, low birth weight, tremors, excessive crying, attention deficit disorder and behavior disorders.

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

(e) That environmental damage is another consequence of the methamphetamine epidemic. Each pound of methamphetamine produced leaves behind five to six

pounds of toxic waste. Chemicals and byproducts that result from the manufacture of methamphetamine are often poured into plumbing systems, storm drains or directly onto the ground. Clean up of methamphetamine laboratories is extremely resource intensive, with an average remediation cost of $5,000.

(f) That it is in the best interest of every West Virginian to develop a viable solution to address the growing methamphetamine problem in the State of West Virginia. The Legislature finds that extraction- or conversion-resistant pseudoephedrine hydrocloride can provide a nonprescription option that is less readily usable in the manufacture of methamphetamine. The Legislature finds that ~~restricting access to over-the-counter~~ requiring a prescription for drugs that can be readily converted ~~used~~ to facilitate production of methamphetamine is necessary to protect the public safety of all West Virginians.

(g) That it is further in the best interests of every West Virginian to create impediments to the manufacture of

methamphetamine by requiring persons purchasing chemicals necessary to the process to provide identification.

§60A-10-3. Definitions.

In this article:

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

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

(c) "Distributor" means any person within this state or another state, other than a manufacturer or wholesaler, who sells, delivers, transfers or in any manner furnishes a drug product to any person who is not the ultimate user or consumer of the product.

(d) "Drug product" means a pharmaceutical product that contains ephedrine, pseudoephedrine or phenylpropanolamine or a substance identified on the supplemental list provided in section seven of this article

~~which may be sold without a prescription~~ and which is labeled for use by a consumer in accordance with the requirements of the laws and rules of this state and the federal government.

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

(f) "Extraction or conversion resistant" means a product containing ephedrine, pseudoephedrine or phenylpropanolamine that because of its compounding, preparation, mixture or ingredients has been found by the Board of Pharmacy to pose a significantly reduced risk of being used in the manufacture of methamphetamine.

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

~~(g)~~ (h) "National Association of Drug Diversion Investigators" or "NADDI" means the nonprofit 501(c)(3)

organization established in 1989, made up of members who are responsible for investigating and prosecuting pharmaceutical drug diversion, and that facilitates cooperation between law enforcement, health care professionals, state regulatory agencies and pharmaceutical manufacturers in the investigation and prevention of prescription drug abuse and diversion.

~~(h)~~ (i) "Multi-State Real-Time Tracking System" or "MSRTTS" means the real-time electronic logging system provided by NADDI at no cost to states that have legislation requiring real-time electronic monitoring of precursor purchases, and agree to use the system. MSRTTS is used by pharmacies and law enforcement to track sales of over-the-counter (OTC) cold and allergy medications containing precursors to the illegal drug methamphetamine.

~~(i)~~ (j) "Phenylpropanolamine" means phenylpropanolamine, its salts, optical isomers and salts of optical isomers.

~~(j)~~ (k) "Pseudoephedrine" means pseudoephedrine, its salts, optical isomers and salts of optical isomers.

~~(k)~~ (l) "Precursor" means any substance which may be used along with other substances as a component in the production and distribution of illegal methamphetamine.

~~(l)~~ (m) "Pharmacist" means an individual currently licensed by this state to engage in the practice of pharmacist care as defined in article five, chapter thirty of this code.

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

~~(n)~~ (o) "Pharmacy" means any drugstore, apothecary or place within this state where drugs are dispensed and sold at retail or display for sale at retail and pharmacist care is provided outside of this state where drugs are dispensed and pharmacist care is provided to residents of this state.

~~(o)~~ (p) "Pharmacy counter" means an area in the pharmacy restricted to the public where controlled substances are stored and housed and where controlled

substances may only be sold, transferred or dispensed by a pharmacist, pharmacy intern or pharmacy technician.

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

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

~~(r)~~ (s) ~~"Schedule V"~~ "Schedule IV" means the schedule of controlled substances set out in section two hundred ~~twelve~~ ten, ~~section~~ article two of this chapter.

~~(s)~~ (t) "Superintendent of the State Police" or "superintendent" means the Superintendent of the West Virginia State Police as set forth in ~~section five,~~ article two, chapter fifteen of this code.

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

§60A-10-4. Purchase, receipt, acquisition and possession of substances which may be used as a precursor to manufacture of methamphetamine or another controlled substance; offenses; exceptions; penalties.

(a) A pharmacy may not sell, transfer or dispense ~~to the same person, and a person may not purchase more than three and six-tenths grams per day, more than seven and two-tenths grams in a thirty-day period or more than forty-eight grams annually of~~ ephedrine, pseudoephedrine or phenylpropanolamine without a prescription, ~~The limits shall apply to the total amount of ephedrine, pseudoephedrine and phenylpropanolamine contained in the products, and not the overall weight of the products.~~ unless the product has been determined by the Board of Pharmacy to be in an extraction- or conversion-resistant form.

(1) Any person who ~~or~~ knowingly ~~purchases, receives or otherwise~~ possesses, ~~more than seven and two-tenths grams in a thirty-day period~~ delivers or possesses with the intent to

deliver ~~of~~ ephedrine, pseudoephedrine or phenylpropanolamine ~~in any form without a prescription~~ that has not been determined by the Board of Pharmacy to be in an extraction- or conversion-resistant form without a prescription is guilty of a misdemeanor and, upon conviction, shall be confined in a jail for not more than one year, fined not more than $1,000, or both fined and confined: *Provided,* That the provisions of subdivision (3), subsection (a), section seven, article seven, chapter sixty-one of this code are inapplicable to persons possessing ephedrine, pseudoephedrine or phenylpropanolamine which has been lawfully purchased in the jurisdiction of sale and which is possessed with the intent that it be used in the manner and form intended by the manufacturer.

(2) Any pharmacy, wholesaler or other entity operating the retail establishment which sells, transfers or dispenses a product in violation of this section is guilty of a misdemeanor and, upon conviction, shall be fined not more than $1,000 for the first offense, or more than $10,000 for each subsequent offense.

(b) Notwithstanding the provisions of ~~subdivision (a)(1)~~ subdivision (1), subsection (a) of this section, any person convicted of a second or subsequent violation of the provisions of said subdivision or a statute or ordinance of the United States or another state which contains the same essential elements is guilty of a felony and, upon conviction, shall be imprisoned in a state correctional facility for not less than one nor more than five years, fined not more than $25,000, or both imprisoned and fined.

(c) The provisions of subsection (a) of this section shall not apply to:

(1) Products dispensed pursuant to a valid prescription;

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

~~(3) Drug products containing ephedrine, pseudoephedrine or phenylpropanolamine, their salts or optical isomers or salts of optical isomers or other designated precursor which have been determined by the Board of Pharmacy to be in a~~

~~form which is not feasible for being used for the manufacture of methamphetamine; or~~

~~(4)~~ (3) Persons lawfully possessing drug products in their capacities as distributors, wholesalers, manufacturers, pharmacists, pharmacy interns, pharmacy technicians or health care professionals.

(d) Notwithstanding any provision of this code to the contrary, any person who knowingly possesses any amount of ephedrine, pseudoephedrine, phenylpropanolamine or other designated precursor with the intent to use it in the manufacture of methamphetamine, or who knowingly compensates, hires or provides other incentives for another person to purchase, obtain or transfer any amount of ephedrine, pseudoephedrine, phenylpropanolamine or other designated precursor with the intent to use it in the manufacture of methamphetamine or who knowingly possesses a substance containing ephedrine, pseudoephedrine or phenylpropanolamine or their salts, optical isomers or salts of optical isomers in a state or form

which is or has been altered or converted from the state or form in which these chemicals are, or were, commercially distributed is guilty of a felony and, upon conviction, shall be imprisoned in a state correctional facility for not less than two nor more than ten years, fined not more than $25,000, or both imprisoned and fined.

(e) (1) Any pharmacy, wholesaler, manufacturer or distributor of drug products containing ephedrine, pseudoephedrine, phenylpropanolamine, their salts or optical isomers or salts of optical isomers or other designated precursor shall obtain a registration annually from the State Board of Pharmacy as described in section six of this article. Any such pharmacy, wholesaler, manufacturer or distributor shall keep complete records of all sales and transactions as provided in section eight of this article. The records shall be gathered and maintained pursuant to legislative rule promulgated by the Board of Pharmacy.

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

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

§60A-10-5. Restrictions on the commercial sale, transfer or delivery of certain drug products; penalties.

(a) No pharmacy or individual may display, offer for sale or place a drug product containing ephedrine, pseudoephedrine or phenylpropanolamine or other designated methamphetamine precursor where the public may freely access the drug product. All such drug products or designated precursors shall be placed behind a pharmacy counter where access is restricted to a pharmacist, a pharmacy intern, a pharmacy technician or other pharmacy employee.

(b) All storage of drug products regulated by the provisions of this section shall be in a controlled and locked access location that is not accessible by the general public and shall maintain strict inventory control standards and complete records of quantity of the product maintained in bulk form: *Provided*, That wholesale drug distributors required to be licensed by the Board of Pharmacy which are registered with and regulated by the United States Drug Enforcement Administration shall not be subject to any board requirements relating to the storage, recordkeeping or physical security of controlled substances containing ephedrine, pseudoephedrine or phenylpropanolamine which are more stringent than those imposed by the U. S. Drug Enforcement Administration.

(c) No pharmacy may sell, deliver or provide any drug product regulated by the provisions of this section to any person who is under the age of eighteen.

(d) If a drug product regulated by the provisions of this section is transferred, sold or delivered, the individual,

pharmacy or retail establishment transferring, selling or delivering the drug product shall offer to have a pharmacist provide patient counseling, as defined by article five, chapter thirty of this code and the rules of the Board of Pharmacy, to the person purchasing, receiving or acquiring the drug product in order to improve the proper use of the drug product and to discuss contraindications.

(e) If a drug product regulated by the provisions of this section which the Board of Pharmacy has determined is in an extraction or conversion resistant form is transferred, sold or delivered, the individual or pharmacy ~~or retail establishment~~ transferring, selling or delivering the drug product shall require the person purchasing, receiving or otherwise acquiring the drug product to ~~(1) Produce~~ produce a valid government-issued photo identification showing his or her date of birth; and

~~(2) Sign a logbook, in either paper or electronic format, containing the information set forth in subsection (b),~~

~~section eight of this article and attesting to the validity of the information.~~

(f) Any person who knowingly makes a false representation or statement pursuant to the requirements of this section is guilty of a misdemeanor and, upon conviction, be confined in a jail for not more than six months, fined not more than $5,000, or both fined and confined.

(g) The pharmacist, pharmacy intern or pharmacy technician processing the transaction shall determine that the name entered in the logbook corresponds to the name provided on the identification.

(2) Beginning January 1, 2013, a pharmacy or retail establishment shall, before completing a sale under this section, electronically submit the information required by section eight of this article to the Multi-State Real-Time Tracking System (MSRTTS) administered by the National Association of Drug Diversion Investigators (NADDI): *Provided,* That the system is available to retailers in the state without a charge for accessing the system. This system shall

be capable of generating a stop-sale alert, which shall be a notification that completion of the sale would result in the seller or purchaser violating the quantity limits set forth in this article. The seller may not complete the sale if the system generates a stop-sale alert. The system shall contain an override function that may be used by a dispenser of a drug product who has a reasonable fear of imminent bodily harm if he or she does not complete a sale. Each instance in which the override function is utilized shall be logged by the system. Absent negligence, wantonness, recklessness or deliberate misconduct, any retailer utilizing the Multi-State Real-Time Tracking System in accordance with this subdivision may not be civilly liable as a result of any act or omission in carrying out the duties required by this subdivision and is immune from liability to any third party unless the retailer has violated any provision of this subdivision in relation to a claim brought for the violation.

(3) If a pharmacy or retail establishment selling a nonprescription product containing ephedrine,

pseudoephedrine or phenylpropanolamine experiences mechanical or electronic failure of the Multi-State Real-Time Tracking System and is unable to comply with the electronic sales tracking requirement, the pharmacy or retail establishment shall maintain a written log or an alternative electronic recordkeeping mechanism until such time as the pharmacy or retail establishment is able to comply with the electronic sales tracking requirement.

(h) This section does not apply to drug products that are dispensed pursuant to a prescription, ~~are~~ or pediatric products primarily intended for administration, according to label instructions, to children under twelve years of age.

(i) Any violation of this section for which there is not a particularized penalty is a misdemeanor, punishable upon conviction by a fine in an amount not more than $10,000.

(j) The provisions of this section supersede and preempt all local laws, ordinances, rules and regulations pertaining to the sale of any compounds, mixtures or preparation

containing ephedrine, pseudoephedrine or phenylpropanolamine.

§60A-10-7. Restricted products; rule-making authority; effective date of amendments.

(a) On or before July 1, ~~2005~~ 2014, the Board of Pharmacy shall promulgate emergency and legislative rules pursuant to the provision of article three, chapter twenty-nine-a of this code to ~~a implement~~ continue the program wherein the Board of Pharmacy ~~shall consult~~ consults with the Superintendent of the State Police in identifying drug products which are a designated precursor, in addition to those that contain ephedrine, pseudoephedrine or phenylpropanolamine, that are commonly being used in the production and distribution of methamphetamine. Those drug products which the Superintendent of the State Police ~~have~~ has demonstrated by empirical evidence are commonly used in the manufacture of methamphetamine shall be added to a supplemental list and shall be subject to all of the restrictions of this article. These rules established pursuant to this section shall include:

(1) A process whereby pharmacies are made aware of all drug products that contain ephedrine, pseudoephedrine and phenylpropanolamine that will be listed as a Schedule ~~V~~ IV substance. ~~and must be sold, transferred or dispensed from behind a pharmacy counter.~~ This process shall specifically state which products have been determined by the Board of Pharmacy to be in a form which is extraction or conversion resistant and may, therefore, be sold without a prescription. The process shall specify that all other drug products which have not been determined by the Board of Pharmacy to be extraction or conversion resistant shall be distributed by prescription only;

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

(b) At any time after July 1, 2005, the Board of Pharmacy, upon the recommendation of the Superintendent

of the State Police, shall promulgate emergency and legislative rules pursuant to the provision of article three, chapter twenty-nine-a of this code to implement an updated supplemental list of products containing the controlled substances ephedrine, pseudoephedrine or phenylpropanolamine as an active ingredient or any other drug used as a precursor in the manufacture of methamphetamine, which the Superintendent of the State Police has demonstrated by empirical evidence is being used in the manufacture of methamphetamine. This list shall also note any products containing ephedrine, pseudoephedrine or phenylpropanolamine but which has been determined by the Board of Pharmacy to be in a form which is extraction or conversion resistant. This listing process shall comport with the requirements of subsection (a) of this section.

(c) The repeal of section eight, article 10, chapter sixty-a of this code, and the amendments to sections two hundred ten and two hundred twelve, article two, chapter sixty-a and sections two, three, four, five and seven, article ten, chapter

sixty-a of this code during the 2014 Regular Session of the Legislature shall be effective September 1, 2014.