



# State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

## **RESEARCH APPENDIX -** **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 05/10/2005 (Per: MGD)



### Appendix – Part 02 of 02

☞ The 2005 drafting file for LRB 05a0465  
has been copied/added to the 2005 drafting file for

**LRB 05a0584**

*and then*

☞ The 2005 drafting file for LRB 05a0584  
has been copied/added to the 2005 drafting file for

**LRB 05a0606**

☞ The attached 2005 draft was incorporated into the new 2005 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2005 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

☞ This cover sheet was added to rear of the original 2005 drafting file. The drafting file was then returned, intact, to its folder and filed.

**2005 DRAFTING REQUEST**

**Assembly Amendment (AA-ASA2-AB183)**

Received: 05/06/2005

Wanted: As time permits

For: Leah Vukmir (608) 266-9180

This file may be shown to any legislator: NO

May Contact:

Subject: **Criminal Law - drugs**

Received By: mdsida

Identical to LRB:

By/Representing: **Dean**

Drafter: mdsida

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: **Rep.Vukmir@legis.state.wi.us**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Sale of pseudoephedrine

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**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mdsida 05/09/2005	jdye 05/09/2005		_____			
/1			rschlue 05/09/2005	_____	Inorthro 05/09/2005	<del>Inorthro</del> 05/09/2005 sbasford 05/10/2005	
				_____			
				_____			

FE Sent For:

2005 DRAFTING REQUEST

Assembly Amendment (AA-ASA2-AB183)

Received: 05/06/2005

Wanted: As time permits

For: Legislative Reference Bureau

This file may be shown to any legislator: NO

May Contact:

Subject: Criminal Law - drugs

Received By: mdsida

Identical to LRB:

By/Representing:

Drafter: mdsida

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: michael.dsida@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Sale of pseudoephedrine

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mdsida 05/09/2005	jdyer 05/09/2005		_____			
/1			rschlue 05/09/2005	_____	Inorthro 05/09/2005	<del>Inorthro 05/09/2005</del>	

FE Sent For:

<END>

2005 DRAFTING REQUEST

Assembly Amendment (AA-ASA ~~LRBs0094/A~~ <sup>2</sup> AB183)

Received: 05/06/2005

Received By: mdsida

Wanted: As time permits

Identical to LRB:

For: Legislative Reference Bureau

By/Representing:

This file may be shown to any legislator: NO

Drafter: mdsida

May Contact:

Add. Drafters:

Subject: Criminal Law - drugs

Extra Copies:

Submit via email: NO

Pre Topic:

No specific pre topic given

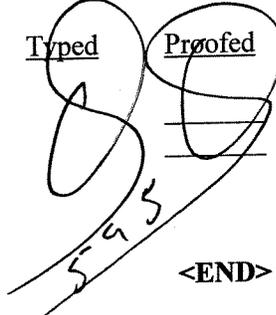
Topic:

Sale of pseudoephedrine

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1/?	mdsida	1/5/9 jld					

FE Sent For:

<END>

## Dsida, Michael

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**From:** Cady, Dean  
**Sent:** Monday, May 09, 2005 12:43 PM  
**To:** Dsida, Michael  
**Subject:** RE: After you listen to the voicemails...

Mike, if the feds classify in the federal version of Schedule V, fine - then the CSB can follow in kind. Representative Vukmir simply wants what the CSB does to be consistent with federal law, so long as the feds go first the CSB shall follow.  
Cheers,  
deano

---

**From:** Dsida, Michael  
**Sent:** Monday, May 09, 2005 12:30 PM  
**To:** Cady, Dean  
**Subject:** RE: After you listen to the voicemails...

What if the feds classify pseudoephedrine in the federal version of Schedule V? Should the CSB then be able to add it to our Schedule V? (Some people view Schedule V drugs as "over-the-counter," even though they can be obtained only from a pharmacist.)

-----Original Message-----

**From:** Cady, Dean  
**Sent:** Monday, May 09, 2005 12:25 PM  
**To:** Dsida, Michael  
**Subject:** RE: After you listen to the voicemails...

Mike, Representative Vukmir's concern is that the PFB & CSB (generally speaking) should have the authority to reclassify over-the-counter medication inconsistent with federal law. So, what if we inserted language in s. 450.07 4 (b) 1, stating something to the effect that, reclassification of over-the-counter medication shall be consistent with federal law.

Let me know what you think. Thank you.  
Cheers,  
deano

---

**From:** Dsida, Michael  
**Sent:** Monday, May 09, 2005 12:11 PM  
**To:** Cady, Dean  
**Subject:** RE: After you listen to the voicemails...

Deleting lines 15-16 would not address the problem. You would still need to limit the PEB's authority. In addition, deleting those lines would require you to modify the definition of "pseudoephedrine product," since, under the sub, the CSB has the authority to add and remove products from the definition of "pseudoephedrine product." See page 9, lines 1-6.

-----Original Message-----

**From:** Cady, Dean  
**Sent:** Monday, May 09, 2005 11:50 AM  
**To:** Dsida, Michael  
**Subject:** RE: After you listen to the voicemails...

Hi Mike. Sorry for the delay in getting back to you, I appreciate the attention. What if we deleted the language added in ASA 2, page 9, lines 15 & 16, "this paragraph does not apply . . . (20c)." Or would we have to specifically insert language stating that the Pharma Brd could not impose regulations on the distribution of pseudoephedrine products?

Cheers,  
deano

---

**From:** Dsida, Michael  
**Sent:** Friday, May 06, 2005 4:19 PM  
**To:** Cady, Dean  
**Subject:** After you listen to the voicemails...

Note that s. 450.07 (4) (b) would allow the Pharmacy Examining Board to impose additional regulations even if your amendment were adopted. If you want to impose any restrictions on the Board's authority to regulate the distribution of pseudoephedrine products, please let me know.

---

**Dsida, Michael**

---

**From:** Cady, Dean  
**Sent:** Monday, May 09, 2005 1:14 PM  
**To:** Dsida, Michael  
**Subject:** RE: Last comment (I think)

Hi Mike. That would be fine to include language allowing the CSB to add something so long as the feds do, no problem.  
Thankx.  
deano

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**From:** Dsida, Michael  
**Sent:** Monday, May 09, 2005 1:00 PM  
**To:** Cady, Dean  
**Subject:** Last comment (I think)

After thinking about this some more, you don't need to address the issue below if you don't want to. Right now, the CSB does not appear to have the authority to add anything to Schedule V unless it is on the federal version of Schedules I, II, III, or IV. If you want to keep it that way, you can. But if you want to change s. 961.11 (6) (a) to allow the CSB to add something to Schedule V if the feds add it to the federal Schedule V (or just add pseudoephedrine if the feds do), I can include language amending that provision.

-----Original Message-----

**From:** Cady, Dean  
**Sent:** Monday, May 09, 2005 12:43 PM  
**To:** Dsida, Michael  
**Subject:** RE: After you listen to the voicemails...

Mike, if the feds classify in the federal version of Schedule V, fine - then the CSB can follow in kind. Representative Vukmir simply wants what the CSB does to be consistent with federal law, so long as the feds go first the CSB shall follow.

Cheers,  
deano

---

**From:** Dsida, Michael  
**Sent:** Monday, May 09, 2005 12:30 PM  
**To:** Cady, Dean  
**Subject:** RE: After you listen to the voicemails...

What if the feds classify pseudoephedrine in the federal version of Schedule V? Should the CSB then be able to add it to our Schedule V? (Some people view Schedule V drugs as "over-the-counter," even though they can be obtained only from a pharmacist.)

# RESEARCH APPENDIX - Draft Transfer/Copy Request Form

- Atty's please complete this form and give to Mike Barman

(Request Made By: mgd) (Date: 5 19 1 05)



Please transfer the drafting file for  
2003 LRB Done to the drafting file  
for 2005 LRB MB

The final version of the 2003 draft and original Request Sheet will be copied on yellow paper, and returned to the original 2003 drafting file. A new cover sheet will be created/included listing the new location of the drafting file's "guts".

For research purposes, because the 2003 draft was incorporated into a 2005 draft, the complete drafting file will be transferred, as a separate appendix, to the new 2005 drafting file. This request form will be inserted into the "guts" of the 2005 draft. If introduced, the appendix will be scanned/added to the electronic drafting file folder.

**---OR---**

Please copy the drafting file for  
2005 LRB a0465 / 2 (include the version) and place it in the  
drafting file for 2005 LRB ~~a0584~~ a0584

For research purposes, because the original 2005 draft was incorporated into another 2005 draft, the original drafting file will be copied on yellow paper (darkened/auto centered/reduced to 90%) and added, as a separate appendix, to the new 2005 drafting file. This request form will be inserted into the "guts" of the new 2005 draft. If introduced the appendix will be scanned/added to the electronic drafting file folder.

The original drafting file will then returned, intact, to its folder and filed. For future reference, a copy of the transfer/copy request form will also be added to the "guts" of the original draft.

0584//  
LRBa0465/2  
MGD,jld,jf  
stays

LPS - fix request  
sheet please

ASSEMBLY AMENDMENT,  
TO ASSEMBLY SUBSTITUTE AMENDMENT <sup>2</sup>  
TO 2005 ASSEMBLY BILL 183

MON  
5 PM

# Page 2, line 1: delete that line and substitute "methamphetamine".

MOVE

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page <sup>6</sup> 9, line <sup>21</sup> 14: after that line insert:

3 "SECTION <sup>x</sup> 9m. 134.61 of the statutes is created to read:

4 134.61 Sale of <sup>7</sup> pseudoephedrine products to minors. (1) DEFINITION. In <sup>5</sup>

5 this section, "pseudoephedrine product" does not include any of the following:

6 (a) A product that contains therapeutically significant quantities of another  
7 active medicinal ingredient.

8 (b) A liquid or a soft gelatin capsule.

9 (c) A product that the controlled substances board has determined, by rule,  
10 cannot be used readily in the manufacture of methamphetamine.

11 (2) PROHIBITION. No person may sell a pseudoephedrine product or offer a  
12 pseudoephedrine product for sale to a person under the age of 18.

NS  
1/5

#. Page 6, line 22: delete lines 22 and 23 and substitute:  
"SECTION 8m. 450.07 (4)(b) of the statutes is amended to  
read: "

(3) DEFENSE. Proof of all of the following facts by a person who sells a pseudoephedrine product or offers a pseudoephedrine product for sale to a person under the age of 18 is a defense to any prosecution for a violation of sub. (2):

(a) That the purchaser or the person to whom the product was offered falsely represented that he or she had attained the age of 18 and presented an identification card.

(b) That the appearance of the purchaser or the person to whom the product was offered was such that an ordinary and prudent person would have believed that he or she had attained the age of 18.

(c) That the sale or offer was made in good faith, in reasonable reliance on the identification card and appearance of the purchaser or the person to whom the product was offered, and with the belief that he or she had attained the age of 18.

(4) PENALTIES. (a) Except as provided in par. (b), a person who violates sub. (2) is subject to a forfeiture of not more than \$500.

(b) If a person who violates sub. (2) committed the violation within the 12 months preceding the present offense, the person shall forfeit not less than \$200 nor more than \$500."

MADE

MADE

~~2. Page 6, line 6: delete the material beginning with that line and ending with page 6, line 18.~~

~~3. Page 7, line 6: delete lines 6 to 12.~~

4. Page 8, line 20: delete the material beginning with that line and ending with page 9, line 9.

#. Page 15, line 21: delete that line and substitute:  
"the treatment of section 134.61 of the statutes".

(END) ✓  
EPP date 4/1m

#. Page 6, line 24: delete "(intro.)".  
#. Page 7, line 1: delete lines 1 to 9 and substitute

INS 2/17

1 939.62 (2m) (a) 2m. am. A crime under s. 961.65.

2 SECTION 15. 939.62 (2m) (a) 2m. d. of the statutes is amended to read:

3 939.62 (2m) (a) 2m. d. A crime at any time under federal law or the law of any  
4 other state or, prior to April 28, 1994, under the law of this state that is comparable  
5 to a crime specified in this subd. 2m. a., am., b., or c.

6 SECTION 16. 939.62 (2m) (d) of the statutes is amended to read:

7 939.62 (2m) (d) If a prior conviction is being considered as being covered under  
8 par. (a) 1m. b. or 2m. d. as comparable to a felony specified under par. (a) 1m. a. or  
9 2m. a., am., b., or c., the conviction may be counted as a prior conviction under par.  
10 (b) only if the court determines, beyond a reasonable doubt, that the violation  
11 relating to that conviction would constitute a felony specified under par. (a) 1m. a.  
12 or 2m. a., am., b., or c. if committed by an adult in this state.

13 SECTION 17. 961.01 (11t) of the statutes is created to read:

14 961.01 (11t) "Ephedrine product" means any material, compound, mixture, or  
15 preparation that contains any quantity of ephedrine or any of its salts, isomers, and  
16 salts of isomers.

17 SECTION 18. 961.01 (12t) of the statutes is created to read:

18 ~~(a) 961.01(12t)~~ "Liquid-filled pseudoephedrine gelcap" means a soft, liquid-filled  
19 gelatin capsule that is intended to be sold at retail and that contains  
20 pseudoephedrine or any of its salts, isomers, or salts of isomers.

21 SECTION 19. 961.01 (20c) of the statutes is created to read:

22 ~~(a) 961.01(20c)~~ "Pseudoephedrine product" means a material, compound,  
23 mixture, or preparation containing any quantity of pseudoephedrine or any of its  
24 salts, isomers, or salts of isomers but does not include such a product if any of the  
25 following applies:

IN Sect 1/5

→ INSERT J to INS 1-5 (from next page)

INS 1-5  
cta

1 (a) The product is a pseudoephedrine liquid or a liquid-filled pseudoephedrine  
2 gelcap. This ~~paragraph~~ <sup>subdivision</sup> does not apply if the controlled substances board has  
3 determined, by rule, that the product can be readily used in the manufacture of  
4 methamphetamine.

5 (b) The controlled substances board has determined, by rule, that the product  
6 cannot be readily used in the manufacture of methamphetamine.

MOVE  
PREVIOUS  
PAGE

7 ~~Section 20. 961.01 (2) of the statutes is created to read:~~  
8 ~~(a) "Pseudoephedrine liquid" means a product that is intended to be~~  
9 ~~sold at retail, that is a liquid at room temperature, and that contains~~  
10 ~~pseudoephedrine or any of its salts, isomers, or salts of isomers.~~ (end ins 1-5)

INS J to INS  
1-5

11 SECTION 21. 961.11 (6) (a) of the statutes is amended to read:  
12 961.11 (6) (a) The controlled substances board shall not have authority to  
13 control a nonnarcotic substance if the substance may, under the federal food, drug  
14 and cosmetic act and the laws of this state, be lawfully sold over the counter without  
15 a prescription. This paragraph does not apply to the promulgation of rules by the  
16 controlled substances board under s. 961.01 (20c).

17 SECTION 22. 961.22 (2m) of the statutes is created to read:  
18 961.22 (2m) PSEUDOEPHEDRINE. Any pseudoephedrine product.

19 SECTION 23. 961.22 (3) (title) of the statutes is amended to read:  
20 961.22 (3) (title) STIMULANTS OTHER STIMULANTS.

21 SECTION 24. 961.23 (1) of the statutes is amended to read:  
22 961.23 (1) That they They may be dispensed and sold only in good faith as a  
23 medicine and not for the purpose of evading this chapter.

24 SECTION 25. 961.23 (2) of the statutes is amended to read:

2005-2006 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBa0584/lins  
MGD:.....

1 INSERT 2/17

2 ~~NO~~ paragraph may not prescribe a standard regarding circumstances under which  
3 a pseudoephedrine product, as defined in s. 134.61 (1) ~~(b)~~<sup>c</sup>, may be sold at retail or  
4 offered for sale at retail unless the standard is also prescribed under federal law.”

5 1. Page 8, line 17: delete the material beginning with that line and ending with  
6 page 12, line 2, and substitute:

7 “SECTION 19m. 961.01 (20~~g~~) of the statutes is created to read:

8 961.01 (20~~g~~) “Pseudoephedrine product” has the meaning given in s. 134.61 (1)

9 ~~(b)~~ <sup>C</sup> SECTION 21g. 961.11 (6) (a) of the statutes is renumbered 961.11 (6) (a) (intro.)  
10

11 and amended to read:

12 961.11 (6) (a) The controlled substances board shall may not have authority to  
13 control a nonnarcotic substance, other than through the promulgation of rules by the  
14 board under s. 134.61 (1) ~~(b)~~<sup>c</sup>, if the all of the following apply:

15 1. The substance may, under the federal food, drug and cosmetic act and the  
16 laws of this state, be lawfully sold over the counter without a prescription.

17 History: 1971 c. 219, 307; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1981 ~~X~~ 79 s. 18; 1983 a. 189 s. 329 (13); 1995 a. 448 ss. 145 to 152, 469, 470; Stats. 1995 s. 961.11.  
18 SECTION 21r. 961.11 (6) (a) 2. of the statutes is created to read:

19 961.11 (6) (a) 2. The substance is not a controlled substance under schedule V  
of 21 USC 812 (c).”

(end ins 2/17)



State of Wisconsin  
LEGISLATIVE REFERENCE BUREAU

**RESEARCH APPENDIX -  
PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 05/10/2005 (Per: MGD)



**Appendix – Part 01**

☞ The 2005 drafting file for **LRB 05a0465/2**  
was copied/added to the 2005 drafting file for  
**LRB 05a0584**  
and then

☞ The 2005 drafting file for LRB 05a0584/1  
was copied/added to the 2005 drafting file for  
**LRB 05a0602**

☞ The attached 2005 draft was incorporated into the new 2005 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as an appendix, to the new 2005 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

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State of Wisconsin  
LEGISLATIVE REFERENCE BUREAU

**RESEARCH APPENDIX -  
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Date Transfer Requested: 05/10/2005 (Per: MGD)



**Appendix – Part 02**

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**LRB 05a0584**  
and then

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**LRB 05a0602**

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State of Wisconsin  
LEGISLATIVE REFERENCE BUREAU

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Date Transfer Requested: 05/10/2005 (Per: MGD)



**Appendix – Part 01 of 02**

☞ The 2005 drafting file for LRB 05a0465  
has been copied/added to the 2005 drafting file for  
**LRB 05a0584**

*and then*

☞ The 2005 drafting file for LRB 05a0584  
has been copied/added to the 2005 drafting file for  
**LRB 05a0606**

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LEGISLATIVE REFERENCE BUREAU

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**Appendix – Part 02 of 02**

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*and then*

☞ The 2005 drafting file for LRB 05a0584  
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**LRB 05a0606**

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State of Wisconsin  
2005 - 2006 LEGISLATURE

LRBa0584/1  
MGD:jld:rs

ASSEMBLY AMENDMENT ,  
TO ASSEMBLY SUBSTITUTE AMENDMENT 2,  
TO 2005 ASSEMBLY BILL 183

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 2, line 1: delete that line and substitute "methamphetamine".

3 2. Page 6, line 21: after that line insert:

4 "SECTION 7m. 134.61 of the statutes is created to read:

5 134.61 Sale of pseudoephedrine products to minors. (1) DEFINITIONS.

6 In this section:

7 (a) "Liquid-filled pseudoephedrine gelcap" means a soft, liquid-filled gelatin  
8 capsule that is intended to be sold at retail and that contains pseudoephedrine or any  
9 of its salts, isomers, or salts of isomers.

10 (b) "Pseudoephedrine liquid" means a product that is intended to be sold at  
11 retail, that is a liquid at room temperature, and that contains pseudoephedrine or  
12 any of its salts, isomers, or salts of isomers.

1 (c) "Pseudoephedrine product" means a material, compound, mixture, or  
2 preparation containing any quantity of pseudoephedrine or any of its salts, isomers,  
3 or salts of isomers but does not include such a product if any of the following applies:

4 1. The product is a pseudoephedrine liquid or a liquid-filled pseudoephedrine  
5 gelcap. This subdivision does not apply if the controlled substances board has  
6 determined, by rule, that the product can be readily used in the manufacture of  
7 methamphetamine.

8 2. The controlled substances board has determined, by rule, that the product  
9 cannot be readily used in the manufacture of methamphetamine.

10 (2) PROHIBITION. No person may sell a pseudoephedrine product or offer a  
11 pseudoephedrine product for sale to a person under the age of 18.

12 (3) DEFENSE. Proof of all of the following facts by a person who sells a  
13 pseudoephedrine product or offers a pseudoephedrine product for sale to a person  
14 under the age of 18 is a defense to any prosecution for a violation of sub. (2):

15 (a) That the purchaser or the person to whom the product was offered falsely  
16 represented that he or she had attained the age of 18 and presented an identification  
17 card.

18 (b) That the appearance of the purchaser or the person to whom the product  
19 was offered was such that an ordinary and prudent person would have believed that  
20 he or she had attained the age of 18.

21 (c) That the sale or offer was made in good faith, in reasonable reliance on the  
22 identification card and appearance of the purchaser or the person to whom the  
23 product was offered, and with the belief that he or she had attained the age of 18.

24 (4) PENALTIES. (a) Except as provided in par. (b), a person who violates sub. (2)  
25 is subject to a forfeiture of not more than \$500.

1 (b) If a person who violates sub. (2) committed the violation within the 12  
2 months preceding the present offense, the person shall forfeit not less than \$200 nor  
3 more than \$500.”

4 **3.** Page 6, line 22: delete lines 22 and 23 and substitute:

5 “SECTION 8m. 450.07 (4) (b) of the statutes is amended to read:”

6 **4.** Page 6, line 24: delete “(intro.)”.

7 **5.** Page 7, line 1: delete lines 1 to 9 and substitute “paragraph may not  
8 prescribe a standard regarding circumstances under which a pseudoephedrine  
9 product, as defined in s. 134.61 (1) (c), may be sold at retail or offered for sale at retail  
10 unless the standard is also prescribed under federal law.”

11 **6.** Page 8, line 17: delete the material beginning with that line and ending with  
12 page 12, line 2, and substitute:

13 “SECTION 19m. 961.01 (20c) of the statutes is created to read:

14 961.01 (20c) “Pseudoephedrine product” has the meaning given in s. 134.61 (1)

15 (c).

16 SECTION 21g. 961.11 (6) (a) of the statutes is renumbered 961.11 (6) (a) (intro.)  
17 and amended to read:

18 961.11 (6) (a) The controlled substances board shall may not have authority to  
19 control a nonnarcotic substance, other than through the promulgation of rules by the  
20 board under s. 134.61 (1) (c), if the all of the following apply:

21 1. The substance may, under the federal food, drug and cosmetic act and the  
22 laws of this state, be lawfully sold over the counter without a prescription.

23 SECTION 21r. 961.11 (6) (a) 2. of the statutes is created to read:

