



**ASSEMBLY AMENDMENT 1,  
TO 2005 SENATE BILL 78**

May 10, 2005 – Offered by Representatives VUKMIR, SUDER, NASS, VOS, ZIEGELBAUER  
and FIELDS.

1           At the locations indicated, amend the bill, as shown by senate substitute  
2           amendment 2, as follows:

3           **1.** Page 2, line 1: delete that line and substitute “methamphetamine”.

4           **2.** Page 6, line 21: after that line insert:

5           “**SECTION 7m.** 134.61 of the statutes is created to read:

6           **134.61 Sale of pseudoephedrine products to minors. (1) DEFINITIONS.**

7           In this section:

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

11          (b) “Pseudoephedrine liquid” means a product that is intended to be sold at  
12          retail, that is a liquid at room temperature, and that contains pseudoephedrine or  
13          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:

