

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1378

To amend the Controlled Substances Act with respect to the regulation of ephedrine alkaloids, including ephedrine and pseudoephedrine, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2005

Mrs. EMERSON (for herself and Mr. BERRY) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Controlled Substances Act with respect to the regulation of ephedrine alkaloids, including ephedrine and pseudoephedrine, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ephedrine Alkaloids  
5 Regulation Act of 2005”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds as follows:

1           (1) The United States faces increasing danger  
2 related to methamphetamine trafficking, production,  
3 and abuse.

4           (2) Methamphetamine is a highly addictive drug  
5 that can be readily made from products and precursors  
6 purchased from retail stores. Step-by-step recipes  
7 can easily be found on the Internet, which is a  
8 factor in the dramatic increase in the number of  
9 clandestine labs in recent years.

10          (3) Methamphetamine-producing clandestine  
11 laboratories have been identified by the Drug Enforcement  
12 Administration as a significant threat to  
13 the Nation's public health and safety. The manufacture  
14 of methamphetamine produces highly toxic and  
15 unstable chemicals that threaten the well-being of  
16 first responders, law enforcement officers, and the  
17 community at-large.

18          (4) Methamphetamine production, once exclusively  
19 found in West Coast States, has rapidly  
20 moved eastward to the Midwest. Production can now  
21 be found on the East Coast, in the States of New  
22 York and Florida.

23          (5) Methamphetamine abuse is indiscriminate  
24 of age, socioeconomic level, or race.

1           (6) Pseudoephedrine is a necessary precursor  
2 chemical in the production of methamphetamine,  
3 which prompted the Drug Enforcement Administra-  
4 tion to initiate investigations regarding the chemi-  
5 cal's sale and distribution.

6           (7) Efforts to reduce access to pseudoephedrine  
7 by methamphetamine producers, such as blister  
8 packaging and sales thresholds, have not been effec-  
9 tive deterrents, and pseudoephedrine tablets remain  
10 pervasive in the illicit production of methamphet-  
11 amine.

12           (8) Pseudoephedrine in liquid gel and liquid  
13 forms have not been found to be used in meth-  
14 amphetamine production.

15           (9) As States and communities attempt to com-  
16 bat and control methamphetamine through restrict-  
17 ing the sale of pseudoephedrine products, it is in-  
18 cumbent upon the Congress to develop a uniform  
19 standard for the distribution of pseudoephedrine in  
20 tablet form.

21 **SEC. 2. CONTROLLED SUBSTANCES; ADDITION OF EPHED-**  
22 **RINE ALKALOIDS AND PHENYLPROPANOLA-**  
23 **MINE TO SCHEDULE V.**

24           (a) IN GENERAL.—Effective upon the expiration of  
25 30 days after the date of the enactment of this Act, ephed-

1 rine alkaloids (including ephedrine and pseudoephedrine)  
2 and phenylpropanolamine, and their salts, optical isomers,  
3 and salts of optical isomers, whether alone or in combina-  
4 tion with other substances, shall be considered to be listed  
5 in schedule V of the schedules of controlled substances es-  
6 tablished under section 202(c) of the Controlled Sub-  
7 stances Act, subject to subsection (b) and subject to the  
8 authority of the Attorney General under such Act to des-  
9 ignate substances as controlled substances or listed chemi-  
10 cals. The Attorney General shall amend part 1308 of title  
11 21, Code of Federal Regulations, accordingly.

12 (b) CERTAIN FORMS OF PSEUDOEPHEDRINE AND  
13 PHENYLPROPANOLAMINE.—Subject to the authority of  
14 the Attorney General under the Controlled Substances Act  
15 to designate substances as controlled substances or listed  
16 chemicals—

17 (1) subsection (a) does not apply to  
18 pseudoephedrine or phenylpropanolamine when con-  
19 tained in a drug that is in liquid or gel form and  
20 is marketed or distributed lawfully in the United  
21 States under the Federal Food, Drug, and Cosmetic  
22 Act; and

23 (2) pseudoephedrine or phenylpropanolamine  
24 when so contained shall be considered a listed chemi-  
25 cal.

1 **SEC. 3. REGULATION OF TRANSACTIONS INVOLVING LIST-**  
2 **ED CHEMICALS; EXEMPTION FOR CERTAIN**  
3 **DOSAGE FORMS AND QUANTITIES OF**  
4 **PSEUDOEPHEDRINE OR PHENYLPROPANOLA-**  
5 **MINE.**

6 (a) DEFINITION OF REGULATED TRANSACTION.—  
7 Section 102(39)(A)(iv) of the Controlled Substances Act  
8 (21 U.S.C. 802(39)(A)(iv)) is amended—

9 (1) in the matter preceding subclause (I), by  
10 striking “unless—” and inserting “unless, subject to  
11 clause (v)—”; and

12 (2) in subclause (II)—

13 (A) by inserting “in liquid or gel form”  
14 after “containing pseudoephedrine or phenyl-  
15 propanolamine products”; and

16 (B) by striking “shall be 9 grams of  
17 pseudoephedrine or 9 grams of phenyl-  
18 propanolamine” and inserting “shall be any  
19 quantity in excess of 9.0 grams of  
20 pseudoephedrine or 9.0 grams of phenyl-  
21 propanolamine”.

22 (b) DEFINITION OF ORDINARY OVER-THE-COUNTER  
23 PSEUDOEPHEDRINE OR PHENYLPROPANOLAMINE PROD-  
24 UCT.—Section 102 of the Controlled Substances Act (21  
25 U.S.C. 802) is amended—

1           (1) in paragraph (39)(A)(iv)(I)(aa), by striking  
2           “, except that” and all that follows through  
3           “1996”); and

4           (2)(A) by striking paragraph (45); and

5           (B) by redesignating paragraph (46) as para-  
6           graph (45).

7           (c) CHEMICAL MIXTURES NOT EASILY USED IN IL-  
8           LICIT PRODUCTION.—Section 102(39)(A)(v) of the Con-  
9           trolled Substances Act (21 U.S.C. 802(39)(A)(v)) is  
10          amended by inserting after “chemical mixture” the fol-  
11          lowing: “(including a mixture that may be marketed or  
12          distributed lawfully in the United States under the Fed-  
13          eral Food, Drug, and Cosmetic Act)”.

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