

111TH CONGRESS
1ST SESSION

S. 641

To amend the Controlled Substances Act to prevent the abuse of dehydroepiandrosterone, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 19, 2009

Mr. GRASSLEY introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Controlled Substances Act to prevent the abuse of dehydroepiandrosterone, 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
5 “Dehydroepiandrosterone Abuse Reduction Act of 2009”.

6 **SEC. 2. DEHYDROEPIANDROSTERONE.**

7 (a) IN GENERAL.—Part D of title II of the Con-
8 trolled Substances Act (21 U.S.C. 841 et seq.) is amended
9 by adding at the end the following:

1 **“SEC. 424. CIVIL PENALTIES FOR CERTAIN**
2 **DEHYDROEPIANDROSTERONE SALES.**

3 “(a) IN GENERAL.—

4 “(1) SALE.—

5 “(A) IN GENERAL.—Except as provided in
6 paragraph (2), it shall be unlawful for any per-
7 son to knowingly sell, cause another to sell, or
8 conspire to sell a product containing
9 dehydroepiandrosterone to an individual under
10 the age of 18 years, including any such sale
11 using the Internet.

12 “(B) FAILURE TO CHECK IDENTIFICA-
13 TION.—If a person fails to request identifica-
14 tion from an individual under the age of 18
15 years and sells a product containing
16 dehydroepiandrosterone to that individual, that
17 person shall be deemed to have known that the
18 individual was under the age of 18 years.

19 “(C) AFFIRMATIVE DEFENSE.—It shall be
20 an affirmative defense to an alleged violation of
21 subparagraph (A) that the person selling a
22 product containing dehydroepiandrosterone ex-
23 amined the purchaser’s identification and,
24 based on that examination, that person reason-
25 ably concluded that the identification was valid

1 and indicated that the purchaser was not less
2 than 18 years of age.

3 “(2) EXCEPTION.—This section shall not apply
4 to any sale made pursuant to a validly issued pre-
5 scription.

6 “(b) FINES.—

7 “(1) IN GENERAL.—The Attorney General may
8 impose a civil penalty on a person for violating sub-
9 section (a)(1)(A), including a violation of that sub-
10 section committed by an employee or agent of such
11 person.

12 “(2) MAXIMUM AMOUNT.—A civil penalty im-
13 posed under paragraph (1) shall be—

14 “(A) not more than \$1,000 for the first
15 violation of subsection (a)(1)(A) by a person;

16 “(B) not more than \$2,000 for the second
17 violation of subsection (a)(1)(A) by a person;
18 and

19 “(C) not more than \$5,000 for the third
20 violation, or a subsequent violation, of sub-
21 section (a)(1)(A) by a person.

22 “(3) NUMBER OF VIOLATIONS.—If a person
23 makes sales of dehydroepiandrosterone at more than
24 1 location or 1 Internet site, for purposes of deter-
25 mining the number of violations by that person

1 under this subsection each individual location or
2 Internet site operated by that person shall be consid-
3 ered a separate person.

4 “(c) DEFINITION OF IDENTIFICATION CARD.—In
5 this section, the term ‘identification card’ means an identi-
6 fication card that—

7 “(1) includes a photograph and the date of
8 birth of the individual;

9 “(2) is issued by a State or the Federal Govern-
10 ment; and

11 “(3) is considered acceptable for purposes of
12 sections 274a.2(b)(1)(v)(A) and
13 274a.2(b)(1)(v)(B)(1) of title 8, Code of Federal
14 Regulations (as in effect on or after the date of the
15 enactment of the Dehydroepiandrosterone Abuse Re-
16 duction Act of 2009).”.

17 (b) REGULATIONS.—

18 (1) INTERNET SALES.—Not later than 180
19 days after the date of enactment of this Act, the At-
20 torney General of the United States shall promul-
21 gate regulations for Internet sales of products con-
22 taining dehydroepiandrosterone to ensure compliance
23 with section 424 of the Controlled Substances Act,
24 as added by this Act.

25 (2) CIVIL PENALTIES.—

1 (A) IN GENERAL.—Not later than 180
2 days after the date of enactment of this Act,
3 the Attorney General of the United States shall
4 promulgate regulations to carry out section 424
5 of the Controlled Substances Act, as added by
6 this Act.

7 (B) CONTENTS.—The regulations promul-
8 gated under subparagraph (A) shall—

9 (i) provide for a range of fines for a
10 retailer, based on whether the retailer or
11 an employee or agent of that retailer has
12 committed prior violations of section
13 424(a) of the Controlled Substances Act,
14 as added by this Act; and

15 (ii) require consideration of whether a
16 fine to be imposed on a retailer should be
17 reduced or eliminated based on—

18 (I) the establishment and admin-
19 istration of an effective employee
20 training program by a retailer relating
21 to this Act and the amendments made
22 by this Act; or

23 (II) other actions taken by a re-
24 tailer to ensure compliance with this

1 Act and the amendments made by this
2 Act.

3 (3) DEFINITION OF RETAILER.—In this sub-
4 section, the term “retailer” means a grocery store,
5 general merchandise store, drug store, convenience
6 store, or other entity or person whose activities as
7 a distributor relating to products containing
8 dehydroepiandrosterone are limited almost exclu-
9 sively to sales for personal use, both in number of
10 sales and volume of sales, either directly to walk-in
11 customers or in face-to-face transactions by direct
12 sales.

13 (c) TECHNICAL AND CONFORMING AMENDMENT.—
14 The table of contents for the Comprehensive Drug Abuse
15 Prevention and Control Act of 1970 (Public Law 91–513;
16 84 Stat. 1236) is amended by inserting after the item re-
17 lating to section 423 the following:

“Sec. 424. Dehydroepiandrosterone sales.”.

18 (d) EFFECT ON STATE LAW.—This section and the
19 amendments made by this section shall supersede any pro-
20 vision of the law of any State relating to the sale of
21 dehydroepiandrosterone.

○