

SUBJECT: Prohibiting the sale of ephedrine to minors

COMMITTEE: Public Health — favorable, without amendment

VOTE: 7 ayes — Gray, Coleman, Capelo, Delisi, Glaze, Maxey, McClendon
0 nays
2 absent — Hilderbran, Uresti

SENATE VOTE: On final passage, April 7 — voice vote

WITNESSES: For — None
Against — None
On — Joseph Fuller and Susan Steeg, Texas Department of Health

DIGEST: SB 656 would prohibit the intentional sale, transfer, or other provision of ephedrine to a person 17 years of age or younger. The prohibition would not apply to a parent, guardian, or managing conservator of the ephedrine recipient nor to a licensed practitioner or health-care provider who had obtained lawful consent to treat the recipient. The prohibition would not apply if the ephedrine recipient was 17 years of age and financially self-supporting or 16 years of age, financially self-supporting, and living separate and apart from parents or guardians.

The prohibition also would not apply if the product containing ephedrine was a drug. A product containing ephedrine that was not a drug would have to be labeled, in accordance with Texas Department of Health (TDH) rules, to indicate that the sale of the product to persons 17 or younger was prohibited.

A first offense under the bill would be a Class C misdemeanor, punishable by a maximum fine of \$500. A repeat offense would be a Class B misdemeanor, punishable by up to 180 days in jail and/or a maximum fine of \$2,000.

**SUPPORTERS
SAY:**

Ephedrine has a chemical structure similar to that of methamphetamine. It is common for minors to get “high” by mixing products containing ephedrine, such as diet aids, stimulants, or herbal supplements, with alcohol or other chemicals. Ephedrine abuse is dangerous to the health of minors, particularly because the substance is cheap, readily available, and easy to use.

The use of ephedrine has led to at least 1,200 injuries and eight deaths in Texas since 1994, according to TDH. At least 400 to 500 of those injured were persons under 18. Between 1994 and 1996, ephedrine was responsible for more calls to state poison-control centers for minors than was any other substance. Minors should not have easy access to a potentially addictive substance that has caused many deaths and injuries to minors across the country.

SB 656 is intended to prohibit the sale of nondrug items to minors, including dietary supplements used to help people lose weight or to gain muscle mass with weightlifting, and stimulants to stay awake when tired. The bill would not include over-the-counter drugs for asthma, hay fever, and other minor ailments, because these products contain safer doses of ephedrine and are difficult to use for mind-altering purposes.

The bill might not prevent the provision of ephedrine products to minors entirely, but it would represent the best attempt possible. Major retailers are willing and able to prohibit the sale of ephedrine products to minors and to make sure that all prohibited products in their stores are labeled properly. A prohibition would be useful if it prevented even a few minors from obtaining and abusing ephedrine products.

**OPPONENTS
SAY:**

Ephedrine is a concentrated form of a naturally occurring substance that produces a stimulating effect similar to that of caffeine. It is a common and useful substance found in hundreds of products and used safely by millions of people across the state. There is no scientific proof that ephedrine causes adverse reactions if used correctly and no medical basis for banning the sale of ephedrine to any broadly defined group of people. Education and counseling on the proper use of ephedrine products would be a more effective and practical method to ensure the safe use of such products among minors.

A ban on ephedrine sales to minors would be difficult to enforce. Mail-order and Internet sales from out-of-state vendors would be nearly impossible to

control. Minors could obtain ephedrine products by asking adults other than parents or guardians to buy the products for them. Retailers could be held liable under the bill if they sold minors ephedrine products that were not labeled clearly by manufacturers.

**OTHER
OPPONENTS
SAY:**

Prohibiting the sale of ephedrine to minors would be a good start, but it is not enough to protect public healthy and safety. Ephedrine is a potentially dangerous substance that should be regulated as a drug and sold only with a prescription.

The penalties proposed in the bill would not be a sufficient deterrent for selling ephedrine to minors. Out-of-state vendors and some in-state retailers could escape punishment under the bill if the cases were not prosecuted adequately. The bill should include provisions for suspending or revoking the license of a business that sold ephedrine products to minors.