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AMENDED IN SENATE JUNE 19, 1997
AMENDED IN ASSEMBLY MAY 30, 1997
AMENDED IN ASSEMBLY MAY 15, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1173

Introduced by Assembly Member Olberg

February 28, 1997

An act to amend Sections 11100, 11100.1, 11103, 11106, 11107, and 11107.1 of, and to add Section 11106.5 to, the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 1173, as amended, Olberg. Controlled substances.

(1) Existing law provides that any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes specified chemical substances to any person in this state shall submit a report to the Department of Justice of any transaction prior to the transaction which report shall include specified identification information from the purchaser. Existing law provides that these provisions do not apply to specified transactions involving specified individuals or drugs, including specified manufacturers or wholesalers licensed by the California State Board of Pharmacy who sell, transfer, or otherwise furnish specified chemical substances to a licensed pharmacy, physician,

dentist, podiatrist, or veterinarian, and specified transactions involving any drug containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine. Existing law provides, however, that specified transactions involving preparations in solid dosage form containing ephedrine as the only active medicinal ingredient are not exempt from the provisions. Failure to submit a report or to knowingly submit a false report, and a violation of the provisions on proper identification, are crimes.

This bill would specify that it is a manufacturer, wholesaler, retailer, or other person in this state who sells, transfers, or otherwise furnishes any of the list of specified chemical substances to any person or business entity in this state or any other state who is required to submit the above report. The bill would revise the definition of “proper identification” for purposes of the above provisions. The bill would provide that any manufacturer licensed by the State Department of Health Services who sells, transfers, or otherwise furnishes specified chemical substances to the above specified healing arts practitioners or specified retail distributors shall also be exempt from the reporting requirements, provided that records of suspicious transactions, as determined by the Department of Justice, are submitted, and that while specified transactions involving preparations in solid dosage form containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine as the only active medicinal ingredient are not exempt from the reporting requirements, specified sales of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine products are exempt from the reporting requirements. *The bill also would exempt from the reporting requirements any transfer of these specified controlled substances for purposes of lawful disposal as waste.*

The bill would make conforming changes to related provisions. By revising existing crimes, this bill would impose a state-mandated local program.

(2) Existing law provides that the theft or loss of any regulated chemical substance by any licensee, and any difference between the quantity of a regulated chemical



substance received and the quantity shipped, shall be reported to the Department of Justice.

This bill would refer to “permittee” instead of “licensee” and would require the reports to the Department of Justice to be in writing.

(3) Existing law provides that any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes specified chemical substances to a person in this state, or who obtains from a source outside of the state specified chemical substances shall submit an application to, and obtain a permit for the conduct of that business from, the Department of Justice. Existing law provides that an application may be denied, or a permit may be revoked or suspended, for specified reasons. Existing law further provides that selling, transferring, or otherwise furnishing or obtaining the specified chemical substances without a permit is a felony.

This bill would include as a reason to deny an application, or revoke or suspend a permit, the violation of any federal, state, or local criminal statute, rule, or ordinance regulating the manufacture, maintenance, disposal, sale, transfer, or furnishing of the specified chemical substances. The bill would provide that selling, transferring, or otherwise furnishing or obtaining the specified chemical substances without a permit is a misdemeanor or a felony. The bill would also require that, in the event of subsequent changes in ownership, management, or employment, the permittee shall notify the Department of Justice in writing within 15 calendar days of the changes. By revising the definition of an existing crime, this bill would impose a state-mandated local program.

(4) This bill would provide a procedure pursuant to which the Bureau of Narcotic Enforcement may, upon petition, issue an interim order suspending any permittee or imposing permit restrictions if there is evidence that the permittee engaged in acts or omissions constituting a violation of the Health and Safety Code or has been convicted of a crime substantially related to the permitted activity, or that permitting the permittee to operate, or to continue to operate without restrictions, would endanger the public health, safety, or welfare.



(5) Existing law provides that any manufacturer, wholesaler, retailer, or other person who sells to any person in this state any laboratory glassware or apparatus, any chemical reagent or solvent, or any combination thereof, where the value of the goods sold exceeds \$100 and payment for the goods is by specified means, shall require proper purchaser identification and retain the bill of sale, as specified. A violation of the provisions is a misdemeanor.

This bill would revise the requirements for the sale of goods with a value exceeding \$100, and provide that those requirements also apply to the purchase for sale of goods with a value exceeding \$100. By changing the definition of an existing crime, this bill would impose a state-mandated local program.

(6) Existing law provides that any manufacturer, wholesaler, retailer, or other person who sells to any person in this state any quantity of specified chemical substances shall require proper purchaser identification and retain the bill of sale, as specified. A violation of this provision is a misdemeanor.

This bill would revise the requirements for the sale of specified chemical substances, add similar requirements for the purchase of those items, and include iodine and hydrogen chloride gas in the list of chemical substances regulated under those provisions. By changing the definition of an existing crime, this bill would impose a state-mandated local program.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 11100 of the Health and Safety
- 2 Code is amended to read:



1 11100. (a) Any manufacturer, wholesaler, retailer, or
2 other person in this state who sells, transfers, or otherwise
3 furnishes any of the following substances to any person or
4 business entity in this state or any other state shall submit
5 a report to the Department of Justice of all of those
6 transactions:

- 7 (1) Phenyl-2-propanone.
- 8 (2) Methylamine.
- 9 (3) Ethylamine.
- 10 (4) D-lysergic acid.
- 11 (5) Ergotamine tartrate.
- 12 (6) Diethyl malonate.
- 13 (7) Malonic acid.
- 14 (8) Ethyl malonate.
- 15 (9) Barbituric acid.
- 16 (10) Piperidine.
- 17 (11) N-acetylanthranilic acid.
- 18 (12) Pyrrolidine.
- 19 (13) Phenylacetic acid.
- 20 (14) Anthranilic acid.
- 21 (15) Morpholine.
- 22 (16) Ephedrine.
- 23 (17) Pseudoephedrine.
- 24 (18) Norpseudoephedrine.
- 25 (19) Phenylpropanolamine.
- 26 (20) Propionic anhydride.
- 27 (21) Isosafrole.
- 28 (22) Safrole.
- 29 (23) Piperonal.
- 30 (24) Thionylchloride.
- 31 (25) Benzyl cyanide.
- 32 (26) Ergonovine maleate.
- 33 (27) N-methylephedrine.
- 34 (28) N-ethylephedrine.
- 35 (29) N-methylpseudoephedrine.
- 36 (30) N-ethylpseudoephedrine.
- 37 (31) Chloroephedrine.
- 38 (32) Chlorpseudoephedrine.
- 39 (33) Hydriodic acid.

1 (34) Any of the substances listed by the Department
2 of Justice in regulations promulgated pursuant to
3 subdivision (b).

4 (b) The Department of Justice may adopt rules and
5 regulations in accordance with Chapter 3.5
6 (commencing with Section 11340) of Part 1 of Division 3
7 of Title 2 of the Government Code that add substances to
8 subdivision (a) if the substance is a precursor to a
9 controlled substance and delete substances from
10 subdivision (a). However, no regulation adding or
11 deleting a substance shall have any effect beyond March
12 1 of the year following the calendar year during which the
13 regulation was adopted.

14 (c) (1) Any manufacturer, wholesaler, retailer, or
15 other person in this state, prior to selling, transferring, or
16 otherwise furnishing any substance specified in
17 subdivision (a) to any person or business entity in this
18 state or any other state, shall require (A) a letter of
19 authorization from that person or business entity that
20 includes the currently valid business license number or
21 federal Drug Enforcement Administration (DEA)
22 registration number, the address of the business, and a full
23 description of how the substance is to be used, and (B)
24 proper identification from the purchaser. The
25 requirement for a full description of how the substance is
26 to be used does not require the person or business entity
27 to reveal their chemical processes that are typically
28 considered trade secrets and proprietary information.

29 (2) For the purposes of this subdivision, “proper
30 identification” for in-state or out-of-state purchasers
31 includes a valid motor vehicle operator’s license or other
32 official and valid state-issued identification of the
33 purchaser, or individual representing the purchasing
34 business entity, which contains a photograph of the
35 purchaser or purchasing individual, and includes the
36 current domicile or mailing address of the purchaser or
37 purchasing individual, other than a post office box
38 number. “Proper identification” also includes the motor
39 vehicle license number of the motor vehicle used by the
40 purchaser or purchasing individual at the time of transfer



1 or the name of the common carrier and the name and
2 valid motor vehicle operator license number of the driver
3 of the common carrier, and the signature of the
4 purchaser, purchasing individual, or driver of the
5 common carrier. The person selling, transferring, or
6 otherwise furnishing any substance specified in
7 subdivision (a) shall affix his or her signature as a witness
8 to the signature and identification of the purchaser,
9 purchasing individual, or driver of the common carrier.

10 (d) Any manufacturer, wholesaler, retailer, or other
11 person in this state who sells, transfers, or otherwise
12 furnishes a substance specified in subdivision (a) to a
13 person or business entity in this state or any other state
14 shall, not less than 21 days prior to delivery of the
15 substance, submit a report of the transaction, which
16 includes the identification information specified in
17 subdivision (c), to the Department of Justice. However,
18 the Department of Justice may authorize the submission
19 of the reports on a monthly basis with respect to repeated,
20 regular transactions between the furnisher and the
21 recipient involving the substance or substances if the
22 Department of Justice determines that the following
23 exist:

24 (1) A pattern of regular supply of the substance or
25 substances exists between the manufacturer, wholesaler,
26 retailer, or other person who sells, transfers, or otherwise
27 furnishes the substance or substances and the recipient of
28 the substance or substances.

29 (2) The recipient has established a record of utilization
30 of the substance or substances for lawful purposes.

31 (e) This section shall not apply to any of the following:

32 (1) Any pharmacist or other authorized person who
33 sells or furnishes a substance upon the prescription of a
34 physician, dentist, podiatrist, or veterinarian.

35 (2) Any physician, dentist, podiatrist, or veterinarian
36 who administers or furnishes a substance to his or her
37 patients.

38 (3) Any manufacturer licensed by the State
39 Department of Health Services or wholesaler licensed by
40 the California State Board of Pharmacy who sells,



1 transfers, or otherwise furnishes a substance to a licensed
2 pharmacy, physician, dentist, podiatrist, veterinarian, or
3 retail distributor as defined in subdivision (h), provided
4 that the manufacturer or wholesaler submits records of
5 any suspicious sales or transfers as determined by the
6 Department of Justice.

7 (4) (A) Except as otherwise provided in
8 subparagraphs (B) and (C), this section shall not apply to
9 any sale, transfer, furnishing, or receipt of any drug which
10 contains ephedrine, pseudoephedrine,
11 norpseudoephedrine, or phenylpropanolamine and
12 which is lawfully sold, transferred, or furnished over the
13 counter without a prescription pursuant to the federal
14 Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.)
15 or regulations adopted thereunder.

16 (B) This section shall apply to preparations in solid
17 dosage form containing ephedrine, pseudoephedrine,
18 norpseudoephedrine, or phenylpropanolamine as the
19 only active medicinal ingredient.

20 (C) This section shall not apply to the sale of ordinary
21 over-the-counter ephedrine, pseudoephedrine,
22 norpseudoephedrine, or phenylpropanolamine products
23 by retail distributors as defined by this article. However,
24 in no instance shall the sale of any product not defined as
25 ordinary over-the-counter ephedrine, pseudoephedrine,
26 norpseudoephedrine, or phenylpropanolamine by retail
27 distributors be greater than 24 grams of ephedrine, 24
28 grams of pseudoephedrine, 24 grams of
29 norpseudoephedrine, or 24 grams of
30 phenylpropanolamine in a single transaction.

31 (D) Any ephedrine, pseudoephedrine,
32 norpseudoephedrine, or phenylpropanolamine product
33 subsequently removed from exemption pursuant to
34 Section 814 of Title 21 of the United States Code shall
35 similarly no longer be exempt from any state reporting or
36 permitting requirement.

37 (5) *Any transfer of a substance specified in subdivision*
38 *(a) for purposes of lawful disposal as waste.*

39 (f) (1) Any person specified in subdivision (a) or (d)
40 who does not submit a report as required by that



1 subdivision or who knowingly submits a report with false
2 or fictitious information shall be punished by
3 imprisonment in a county jail not exceeding six months,
4 by a fine not exceeding five thousand dollars (\$5,000), or
5 by both the fine and imprisonment.

6 (2) Any person specified in subdivision (a) or (d) who
7 has previously been convicted of a violation of paragraph
8 (1) shall, upon a subsequent conviction thereof, be
9 punished by imprisonment in the state prison, or by
10 imprisonment in a county jail not exceeding one year, by
11 a fine not exceeding one hundred thousand dollars
12 (\$100,000), or by both the fine and imprisonment.

13 (g) (1) It is unlawful for any manufacturer,
14 wholesaler, retailer, or other person to sell, transfer, or
15 otherwise furnish a substance specified in subdivision (a)
16 to a person under 18 years of age.

17 (2) It is unlawful for any person under 18 years of age
18 to possess a substance specified in subdivision (a).

19 (3) A violation of this subdivision is a misdemeanor.

20 (h) For the purposes of this article, the following terms
21 have the following meanings:

22 (1) "Drug store" is any entity described in Code 5912
23 of the Standard Industrial Classification (SIC) Manual
24 published by the United States Office of Management
25 and Budget, 1987 edition.

26 (2) "General merchandise store" is any entity
27 described in Codes 5311 to 5399, inclusive, and Code 5499
28 of the Standard Industrial Classification (SIC) Manual
29 published by the United States Office of Management
30 and Budget, 1987 edition.

31 (3) "Grocery store" is any entity described in Code
32 5411 of the Standard Industrial Classification (SIC)
33 Manual published by the United States Office of
34 Management and Budget, 1987 edition.

35 (4) "Ordinary over-the-counter ephedrine,
36 pseudoephedrine, norpseudoephedrine, or
37 phenylpropanolamine product" means a product
38 containing ephedrine, pseudoephedrine,
39 norpseudoephedrine, or phenylpropanolamine that is
40 required to be reported pursuant to this article and that



1 is, if not a liquid, either sold in package sizes of not more
 2 than 3.0 grams of ephedrine base, 3.0 grams of
 3 pseudoephedrine base, 3.0 grams of norpseudoephedrine
 4 base, ~~or~~ or 3.0 grams of phenylpropanolamine base, ~~or~~ *and*
 5 is packaged in blister packs, each blister containing not
 6 more than two dosage units, or where the use of blister
 7 packs is technically infeasible, is packaged in unit dose
 8 packets or pouches; or, if a liquid, sold in package sizes of
 9 not more than 3.0 grams of ephedrine base, 3.0 grams of
 10 pseudoephedrine base, 3.0 grams of norpseudoephedrine
 11 base, or 3.0 grams of phenylpropanolamine base.

12 (5) “Retail distributor” means a grocery store, general
 13 merchandise store, drugstore, or other related entity, the
 14 activities of which, as a distributor of ephedrine,
 15 pseudoephedrine, norpseudoephedrine, or
 16 phenylpropanolamine products, are limited exclusively
 17 to the sale of ephedrine, pseudoephedrine,
 18 norpseudoephedrine, or phenylpropanolamine products
 19 for personal use both in number of sales and volume of
 20 sales, either directly to walk-in customers or in
 21 face-to-face transactions by direct sales. “Retail
 22 distributor” includes an entity that makes a direct sale,
 23 but does not include the parent company of such an entity
 24 if the company is not involved in direct sales regulated by
 25 this article.

26 (6) “Sale for personal use” means the sale in a single
 27 transaction to an individual customer for a legitimate
 28 medical use of a product containing ephedrine,
 29 pseudoephedrine, norpseudoephedrine, or
 30 phenylpropanolamine in dosages at or below that
 31 specified in paragraph (4). “Sale for personal use” also
 32 includes the sale of *those* products to employers to be
 33 dispensed to employees from first-aid kits or medicine
 34 chests.

35 SEC. 2. Section 11100.1 of the Health and Safety Code
 36 is amended to read:

37 11100.1. (a) Any manufacturer, wholesaler, retailer,
 38 or other person in this state who obtains from a source
 39 outside of this state any substance specified in subdivision
 40 (a) of Section 11100 shall submit a report of that



1 transaction to the Department of Justice 21 days in
2 advance of obtaining the substance. However, the
3 Department of Justice may authorize the submission of
4 reports within 72 hours, or within a timeframe and in a
5 manner acceptable to the Department of Justice, after
6 the actual physical obtaining of a specified substance with
7 respect to repeated transactions between a furnisher and
8 an obtainer involving the substances, if the Department
9 of Justice determines that the obtainer has established a
10 record of utilization of the substances for lawful purposes.
11 This section does not apply to any person whose
12 prescribing or dispensing activities are subject to the
13 reporting requirements set forth in Section 11164, or to
14 any manufacturer, wholesaler, retailer, or other person
15 who is licensed by either the State Department of Health
16 Services or the California State Board of Pharmacy, and
17 is also registered with the federal Drug Enforcement
18 Administration of the United States Department of
19 Justice.

20 (b) (1) Any person specified in subdivision (a) who
21 does not submit a report as required by that subdivision
22 shall be punished by imprisonment in a county jail not
23 exceeding six months, by a fine not exceeding five
24 thousand dollars (\$5,000), or by both that fine and
25 imprisonment.

26 (2) Any person specified in subdivision (a) who has
27 been previously convicted of a violation of subdivision (a)
28 who subsequently does not submit a report as required by
29 subdivision (a) shall be punished by imprisonment in the
30 state prison, or by imprisonment in a county jail not
31 exceeding one year, by a fine not exceeding one hundred
32 thousand dollars (\$100,000), or by both that fine and
33 imprisonment.

34 SEC. 3. Section 11103 of the Health and Safety Code
35 is amended to read:

36 11103. The theft or loss of any substance regulated
37 pursuant to Section 11100 discovered by any permittee or
38 any person regulated by the provisions of this chapter
39 shall be reported in writing to the Department of Justice
40 within three days after the discovery.



1 Any difference between the quantity of any substance
2 regulated pursuant to Section 11100 received and the
3 quantity shipped shall be reported in writing to the
4 Department of Justice within three days of the receipt of
5 actual knowledge of the discrepancy.

6 Any report made pursuant to this section shall also
7 include the name of the common carrier or person who
8 transports the substance and date of shipment of the
9 substance.

10 SEC. 4. Section 11106 of the Health and Safety Code
11 is amended to read:

12 11106. (a) (1) Any manufacturer, wholesaler,
13 retailer, or any other person or business entity in this state
14 who sells, transfers, or otherwise furnishes any substance
15 specified in subdivision (a) of Section 11100 to a person
16 or business entity in this state or any other state or who
17 obtains from a source outside of the state any substance
18 specified in subdivision (a) of Section 11100 shall submit
19 an application to, and obtain a permit for the conduct of
20 that business from, the Department of Justice. An
21 intracompany transfer does not require a permit if the
22 transferor is a permittee. Transfers between company
23 partners or between a company and an analytical
24 laboratory do not require a permit if the transferor is a
25 permittee and a report as to the nature and extent of the
26 transfer is made to the Department of Justice pursuant to
27 Section 11100 or 11100.1. This paragraph shall not apply
28 to any manufacturer, wholesaler, retailer, or other person
29 who is licensed by either the State Department of Health
30 Services or the California State Board of Pharmacy, and
31 is also registered with the federal Drug Enforcement
32 Administration of the United States Department of
33 Justice.

34 (2) Except as provided in paragraph (3), no permit
35 shall be required of any manufacturer, wholesaler,
36 retailer, or other person for the sale, transfer, furnishing,
37 or obtaining of any product which contains ephedrine,
38 pseudoephedrine, norpseudoephedrine, or
39 phenylpropanolamine and which is lawfully sold,
40 transferred, or furnished over the counter without a



1 prescription or by a prescription pursuant to the federal
2 Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.)
3 or regulations adopted thereunder.

4 (3) A permit shall be required for the sale, transfer,
5 furnishing, or obtaining of preparations in solid dosage
6 form containing ephedrine, pseudoephedrine,
7 norpseudoephedrine, or phenylpropanolamine as the
8 only active medicinal ingredient, unless (A) the
9 transaction involves the sale of ordinary over-the-counter
10 ephedrine, pseudoephedrine, norpseudoephedrine, or
11 phenylpropanolamine products by retail distributors as
12 defined by this article, or (B) the transaction is made by
13 a person or business entity exempted from the permitting
14 requirements of this subdivision under paragraph (1).

15 (b) The department shall provide application forms,
16 which are to be completed under penalty of perjury, in
17 order to obtain information relating to the identity of any
18 applicant applying for a permit, including, but not limited
19 to, the business name of the applicant or the individual
20 name, and if a corporate entity, the names of its board of
21 directors, the business in which the applicant is engaged,
22 the business address of the applicant, a full description of
23 any substance to be sold, transferred, or otherwise
24 furnished or to be obtained, the specific purpose for the
25 use, sale, or transfer of those substances specified in
26 subdivision (a) of Section 11100, the training, experience,
27 or education relating to this use, and any additional
28 information requested by the department relating to
29 possible grounds for denial as set forth in this section, or
30 by applicable regulations adopted by the department.
31 The requirement for the specific purpose for the use, sale,
32 or transfer of those substances specified in subdivision (a)
33 of Section 11100 does not require an applicant or
34 permittee to reveal their chemical processes that are
35 typically considered trade secrets and proprietary
36 business information.

37 (c) Applicants and permittees shall authorize the
38 department, or any of its duly authorized representatives,
39 as a condition of being permitted, to make any
40 examination of the books and records of any applicant,



1 permittee, or other person, or visit and inspect the
2 business premises of any applicant or permittee during
3 normal business hours, as deemed necessary to enforce
4 this chapter.

5 (d) An application may be denied, or a permit may be
6 revoked or suspended, for reasons which include, but are
7 not limited to, the following:

8 (1) Materially falsifying an application for a permit or
9 an application for the renewal of a permit.

10 (2) If any individual owner, manager, agent,
11 representative, or employee for the applicant who has
12 direct access, management, or control for any substance
13 listed under subdivision (a) of Section 11100, is or has
14 been convicted of a misdemeanor or felony relating to
15 any of the substances listed under subdivision (a) of
16 Section 11100, any misdemeanor drug-related offense, or
17 any felony under the laws of this state or the United
18 States.

19 (3) Failure to maintain effective controls against the
20 diversion of precursors to unauthorized persons or
21 entities.

22 (4) Failure to comply with this article or any
23 regulations of the department adopted thereunder.

24 (5) Failure to provide the department, or any duly
25 authorized federal or state official, with access to any
26 place for which a permit has been issued, or for which an
27 application for a permit has been submitted, in the course
28 of conducting a site investigation, inspection, or audit; or
29 failure to promptly produce for the official conducting
30 the site investigation, inspection, or audit any book,
31 record, or document requested by the official.

32 (6) Failure to provide adequate documentation of a
33 legitimate business purpose involving the applicant's or
34 permittee's use of any substance listed in subdivision (a)
35 of Section 11100.

36 (7) Commission of any act which would demonstrate
37 actual or potential unfitness to hold a permit in light of the
38 public safety and welfare, which act is substantially
39 related to the qualifications, functions, or duties of a
40 permitholder.



1 (8) If any individual owner, manager, agent,
2 representative, or employee for the applicant who has
3 direct access, management, or control for any substance
4 listed under subdivision (a) of Section 11100, willfully
5 violates or has been convicted of violating, any federal,
6 state, or local criminal statute, rule, or ordinance
7 regulating the manufacture, maintenance, disposal, sale,
8 transfer, or furnishing of any of those substances.

9 (e) Notwithstanding any other provision of law, an
10 investigation of an individual applicant's qualifications, or
11 the qualifications of an applicant's owner, manager,
12 agent, representative, or employee who has direct access,
13 management, or control of any substance listed under
14 subdivision (a) of Section 11100, for a permit may include
15 review of his or her summary criminal history
16 information pursuant to Sections 11105 and 13300 of the
17 Penal Code, including, but not limited to, records of
18 convictions, regardless of whether those convictions have
19 been expunged pursuant to Section 1204.5 of the Penal
20 Code, and any arrests pending adjudication.

21 (f) The department may retain jurisdiction of a
22 canceled or expired permit in order to proceed with any
23 investigation or disciplinary action relating to a
24 permittee.

25 (g) The department may grant permits on forms
26 prescribed by it, which shall be effective for not more
27 than one year from the date of issuance and which shall
28 not be transferable. Applications and permits shall be
29 uniform throughout the state, on forms prescribed by the
30 department.

31 (h) Each applicant shall pay at the time of filing an
32 application for a permit a fee determined by the
33 department which shall not exceed the application
34 processing costs of the department.

35 (i) A permit granted pursuant to this article may be
36 renewed one year from the date of issuance, and annually
37 thereafter, following the timely filing of a complete
38 renewal application with all supporting documents, the
39 payment of a permit renewal fee not to exceed the



1 application processing costs of the department, and a
2 review of the application by the department.

3 (j) Selling, transferring, or otherwise furnishing or
4 obtaining any substance specified in subdivision (a) of
5 Section 11100 without a permit is a misdemeanor or a
6 felony.

7 (k) (1) No person under 18 years of age shall be
8 eligible for a permit under this section.

9 (2) No business for which a permit has been issued
10 shall employ a person under 18 years of age in the capacity
11 of a manager, agent, or representative.

12 (l) (1) An applicant, or an applicant's employees who
13 have direct access, management, or control of any
14 substance listed under subdivision (a) of Section 11100,
15 for an initial permit shall submit with the application two
16 sets of 10-print fingerprint cards for each individual
17 acting in the capacity of an owner, manager, agent, or
18 representative for the applicant, unless the applicant's
19 employees are exempted from this requirement by the
20 Department of Justice. These exemptions may only be
21 obtained upon the written request of the applicant.

22 (2) In the event of subsequent changes in ownership,
23 management, or employment, the permittee shall notify
24 the department in writing within 15 calendar days of the
25 changes, and shall submit two sets of 10-print fingerprint
26 cards for each individual not previously fingerprinted
27 under this section.

28 SEC. 5. Section 11106.5 is added to the Health and
29 Safety Code, to read:

30 11106.5. (a) The Bureau of Narcotic Enforcement, or
31 an administrative law judge sitting alone as provided in
32 subdivision (h), may upon petition issue an interim order
33 suspending any permittee or imposing permit
34 restrictions. The petition shall include affidavits that
35 demonstrate, to the satisfaction of the bureau, both of the
36 following:

37 (1) The permittee has engaged in acts or omissions
38 constituting a violation of this code or has been convicted
39 of a crime substantially related to the permitted activity.



1 (2) Permitting the permittee to operate, or to
2 continue to operate without restrictions, would endanger
3 the public health, safety, or welfare.

4 (b) No interim order provided for in this section shall
5 be issued without notice to the permittee, unless it
6 appears from the petition and supporting documents that
7 serious injury would result to the public before the matter
8 could be heard on notice.

9 (c) Except as provided in subdivision (b), the
10 permittee shall be given at least 15 days' notice of the
11 hearing on the petition for an interim order. The notice
12 shall include documents submitted to the bureau in
13 support of the petition. If the order was initially issued
14 without notice as provided in subdivision (b), the
15 permittee shall be entitled to a hearing on the petition
16 within 20 days of the issuance of the interim order without
17 notice. The permittee shall be given notice of the hearing
18 within two days after issuance of the initial interim order,
19 and shall receive all documents in support of the petition.
20 The failure of the bureau to provide a hearing within 20
21 days following issuance of the interim order without
22 notice, unless the permittee waives his or her right to the
23 hearing, shall result in the dissolution of the interim order
24 by operation of law.

25 (d) At the hearing on the petition for an interim order,
26 the permittee may do the following:

27 (1) Be represented by counsel.

28 (2) Have a record made of the proceedings, copies of
29 which shall be available to the permittee upon payment
30 of costs computed in accordance with the provisions for
31 transcript costs for judicial review contained in Section
32 11523 of the Government Code.

33 (3) Present affidavits and other documentary
34 evidence.

35 (4) Present oral argument.

36 (e) The bureau, or an administrative law judge sitting
37 alone as provided in subdivision (h), shall issue a decision
38 on the petition for interim order within five business days
39 following submission of the matter. The standard of proof
40 required to obtain an interim order pursuant to this



1 section shall be a preponderance of the evidence
2 standard. If the interim order was previously issued
3 without notice, the bureau shall determine whether the
4 order shall remain in effect, be dissolved, or be modified.

5 (f) The bureau shall file an accusation within 15 days
6 of the issuance of an interim order. In the case of an
7 interim order issued without notice, the time shall run
8 from the date of the order issued after the noticed
9 hearing. If the permittee files a notice of defense, the
10 hearing shall be held within 30 days of the agency's
11 receipt of the notice of defense. A decision shall be
12 rendered on the accusation no later than 30 days after
13 submission of the matter. Failure to comply with any of
14 the requirements in this subdivision shall dissolve the
15 interim order by operation of law.

16 (g) Interim orders shall be subject to judicial review
17 pursuant to Section 1094.5 of the Code of Civil Procedure
18 and shall be heard only in the superior court in and for the
19 County of Sacramento, San Francisco, Los Angeles, or San
20 Diego. The review of an interim order shall be limited to
21 a determination of whether the bureau abused its
22 discretion in the issuance of the interim order. Abuse of
23 discretion is established if the respondent bureau has not
24 proceeded in the manner required by law, or if the court
25 determines that the interim order is not supported by
26 substantial evidence in light of the whole record.

27 (h) The bureau may, in its sole discretion, delegate the
28 hearing on any petition for an interim order to an
29 administrative law judge in the Office of Administrative
30 Hearings. If the bureau hears the noticed petition itself,
31 an administrative law judge shall preside at the hearing,
32 rule on the admission and exclusion of evidence, and
33 advise the bureau on matters of law. The bureau shall
34 exercise all other powers relating to the conduct of the
35 hearing, but may delegate any or all of them to the
36 administrative law judge. When the petition has been
37 delegated to an administrative law judge, he or she shall
38 sit alone and exercise all of the powers of the bureau
39 relating to the conduct of the hearing. A decision issued
40 by an administrative law judge sitting alone shall be final



1 when it is filed with the bureau. If the administrative law
2 judge issues an interim order without notice, he or she
3 shall preside at the noticed hearing, unless unavailable, in
4 which case another administrative law judge may hear
5 the matter. The decision of the administrative law judge
6 sitting alone on the petition for an interim order is final,
7 subject only to judicial review in accordance with
8 subdivision (g).

9 (i) Failure to comply with an interim order issued
10 pursuant to subdivision (a) or (b) shall constitute a
11 separate cause for disciplinary action against any
12 permittee, and may be heard at, and as a part of, the
13 noticed hearing provided for in subdivision (f).
14 Allegations of noncompliance with the interim order may
15 be filed at any time prior to the rendering of a decision
16 on the accusation. Violation of the interim order is
17 established upon proof that the permittee was on notice
18 of the interim order and its terms, and that the order was
19 in effect at the time of the violation. The finding of a
20 violation of an interim order made at the hearing on the
21 accusation shall be reviewed as a part of any review of a
22 final decision of the bureau.

23 If the interim order issued by the bureau provides for
24 anything less than a complete suspension of the permittee
25 and the permittee violates the interim order prior to the
26 hearing on the accusation provided for in subdivision (f),
27 the bureau may, upon notice to the permittee and proof
28 of violation, modify or expand the interim order.

29 (j) A plea or verdict of guilty or a conviction after a
30 plea of nolo contendere is deemed to be a conviction
31 within the meaning of this section. A certified record of
32 the conviction shall be conclusive evidence of the fact
33 that the conviction occurred. The bureau may take action
34 under this section notwithstanding the fact that an appeal
35 of the conviction may be taken.

36 (k) The interim orders provided for by this section
37 shall be in addition to, and not a limitation on, the
38 authority to seek injunctive relief provided in any other
39 provision of law.



1 SEC. 6. Section 11107 of the Health and Safety Code
2 is amended to read:

3 11107. (a) Any manufacturer, wholesaler, retailer, or
4 other person in this state who purchases for sale, or who
5 sells to any person in this state or any other state, any
6 laboratory glassware or apparatus, any chemical reagent
7 or solvent, or any combination thereof, where the value
8 of the goods sold in the transaction exceeds one hundred
9 dollars (\$100) and the payment for the goods is made in
10 cash, by personal check, cashier's check, money order, or
11 any other negotiable instrument shall do the following:

12 (1) Notwithstanding any other law, prepare a bill of
13 sale which both identifies the specific items and
14 quantities purchased and the proper purchaser
15 identification information, both of which shall be entered
16 onto the bill of sale or a legible copy of the bill of sale, and
17 shall also affix on the bill of sale his or her signature as
18 witness to the purchase and identification of the
19 purchaser.

20 (2) Notwithstanding any other law, require proper
21 purchaser identification for in-state purchases that
22 includes a valid motor vehicle operator's license or other
23 official and valid state-issued identification of the
24 purchaser that contains a photograph of the purchaser,
25 and includes the residential or mailing address of the
26 purchaser, other than a post office box number, the motor
27 vehicle license number of the motor vehicle used by the
28 purchaser at the time of purchase, a full description of
29 how the substance is to be used, and the signature of the
30 purchaser. Proper purchaser identification for
31 out-of-state purchases includes all of the above, except
32 the motor vehicle license number and the signature of
33 the purchaser. The out-of-state purchase information
34 shall also include the means by which the purchase was
35 delivered or provided to the purchaser and the delivery
36 address, if different from the identification address
37 provided by the purchaser.

38 (3) Retain the original bill of sale containing the
39 purchaser identification information for three years in a
40 readily presentable manner, and present the bill of sale



1 containing the purchaser identification information upon
2 demand by any law enforcement officer or authorized
3 representative of the Attorney General. Copies of these
4 bills of sale obtained by *representatives of* the Attorney
5 General shall be maintained by the ~~office of the Attorney~~
6 ~~General~~ *Department of Justice* for a period of not less
7 than five years.

8 (b) This section shall not apply to any wholesaler who
9 is licensed by the California State Board of Pharmacy and
10 registered with the federal Drug Enforcement
11 Administration of the United States Department of
12 Justice and who sells laboratory glassware or apparatus,
13 any chemical reagent or solvent, or any combination
14 thereof, to a licensed pharmacy, physician, dentist,
15 podiatrist, or veterinarian.

16 (c) A violation of this section is a misdemeanor.

17 (d) For the purposes of this section, the following
18 terms have the following meanings:

19 (1) "Laboratory glassware" includes, but is not limited
20 to, condensers, flasks, separatory funnels, and beakers.

21 (2) "Apparatus" includes, but is not limited to, heating
22 mantles, ring stands, and rheostats.

23 (3) "Chemical reagent" means a chemical that reacts
24 chemically with one or more precursors, but does not
25 become part of the finished product.

26 (4) "Chemical solvent" means a chemical that does
27 not react chemically with a precursor or reagent and does
28 not become part of the finished product. A "chemical
29 solvent" helps other chemicals mix, cools chemical
30 reactions, and cleans the finished product.

31 SEC. 7. Section 11107.1 of the Health and Safety Code
32 is amended to read:

33 11107.1. (a) Any manufacturer, wholesaler, retailer,
34 or other person in this state who sells to any person in this
35 state or any other state any quantity of sodium cyanide,
36 potassium cyanide, cyclohexanone, bromobenzene,
37 magnesium turnings, mercuric chloride, sodium metal,
38 lead acetate, paladium black, red phosphorous, iodine,
39 hydrogen chloride gas, trichlorofluoromethane
40 (fluorotrichloromethane), dichlorodifluoromethane,



1 1,1,2-trichloro-1,2,2-trifluoroethane
2 (trichlorotrifluoroethane), sodium acetate, or acetic
3 anhydride shall do the following:

4 (1) Notwithstanding any other law, prepare a bill of
5 sale which both identifies the specific items and
6 quantities purchased and the proper purchaser
7 identification information, both of which shall be entered
8 onto the bill of sale or a legible copy of the bill of sale, and
9 shall also affix on the bill of sale his or her signature as
10 witness to the purchase and identification of the
11 purchaser.

12 (2) Notwithstanding any other law, require proper
13 purchaser identification for in-state purchases that
14 includes a valid motor vehicle operator's license or other
15 official and valid state-issued identification of the
16 purchaser that contains a photograph of the purchaser,
17 and includes the residential or mailing address of the
18 purchaser, other than a post office box number, the motor
19 vehicle license number of the motor vehicle used by the
20 purchaser at the time of purchase, a full description of
21 how the substance is to be used, the Environmental
22 Protection Agency certification number or business
23 resale number assigned to the individual or business
24 entity for which the individual is purchasing any
25 chlorofluorocarbon product, and the signature of the
26 purchaser. Proper purchaser identification for
27 out-of-state purchases includes all of the above, except
28 the motor vehicle license number and the signature of
29 the purchaser. The out-of-state purchase information
30 shall also include the means by which the purchase was
31 delivered or provided to the purchaser and the delivery
32 address, if different from the identification address
33 provided by the purchaser.

34 (3) Retain the original bill of sale containing the
35 purchaser identification information for three years in a
36 readily presentable manner, and present the bill of sale
37 containing the purchaser identification information upon
38 demand by any law enforcement officer or authorized
39 representative of the Attorney General. Copies of these
40 bills of sale obtained by *representatives of* the Attorney



1 General shall be maintained by the ~~Office of the Attorney~~
2 ~~General~~ *Department of Justice* for a period of not less
3 than five years.

4 (b) Any manufacturer, wholesaler, retailer, or other
5 person in this state who purchases any item listed in
6 subdivision (a) of Section 11107.1 shall do the following:

7 (1) Provide on the record of purchase information on
8 the source of the items purchased, the date of purchase,
9 a description of the specific items, the quantities of each
10 item purchased, and the cost of the items purchased.

11 (2) Retain the record of purchase for three years in a
12 readily presentable manner and present the record of
13 purchase upon demand to any law enforcement officer or
14 authorized representative of the Attorney General.

15 (c) For purposes of this section, these requirements do
16 not apply to either of the following:

17 (1) Any sale of tincture of iodine or any topical solution
18 containing iodine that is equal to or less than one hundred
19 dollars (\$100).

20 (2) Any sale of iodine made to a licensed health care
21 facility, any manufacturer licensed by the State
22 Department of Health Services, or wholesaler licensed by
23 the California State Board of Pharmacy who sells,
24 transfers, or otherwise furnishes the iodine to a licensed
25 pharmacy, physician, dentist, podiatrist, or veterinarian.

26 (d) A violation of this section is a misdemeanor.

27 SEC. 8. No reimbursement is required by this act
28 pursuant to Section 6 of Article XIII B of the California
29 Constitution because the only costs that may be incurred
30 by a local agency or school district will be incurred
31 because this act creates a new crime or infraction,
32 eliminates a crime or infraction, or changes the penalty
33 for a crime or infraction, within the meaning of Section
34 17556 of the Government Code, or changes the definition
35 of a crime within the meaning of Section 6 of Article
36 XIII B of the California Constitution.

37 Notwithstanding Section 17580 of the Government
38 Code, unless otherwise specified, the provisions of this act



1 shall become operative on the same date that the act
2 takes effect pursuant to the California Constitution.

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