

Phase Two of the Federal Combat Meth Law to Take Effect September 30, 2006

The federal Combat Meth Act that took effect in April 2006 requires retailers to train store personnel by September 30, 2006.

The U.S. Drug Enforcement Administration has stated that it plans to offer a training module so that retailers will not have to design their own programs. Numerous groups continue to urge DEA to delay enforcement until retailers have had sufficient time to meet the training requirements. However, as of this date, the training and certification requirement remains scheduled to take effect September 30.

Federal Training & Certification Requirements

Retailers must train applicable sales personnel to ensure that they understand the requirements of PSE product sales and submit self-certifications to the Attorney General in this regard.

1. Training:

a. Individuals to be trained. Retailers must train all individuals who deliver PSE-products to purchasers and cashiers who receive payments for PSE-products to ensure that these persons understand the requirements that apply.

b. Criteria. The U.S. Drug Enforcement Administration (DEA) will issue regulations on the training criteria.

2. Training Certification:

a. Retailers must certify that all retail store employees who conduct PSE sales transactions have been trained.

b. Retailers must maintain certifications and records to confirm employee training.

c. Certifications must state that the retailer understands the legal requirements and agrees to comply with them.

d. Separate certifications are required for each place of business.

e. DEA will establish certification criteria through the regulatory process, but must provide for self-certifications.

f. State and local officials will have access to certifications.

3. Implementation:

Retailers will be able to submit self-certifications over an Internet web site to be established by DEA and receive an acknowledgment of that submission.

Federal Logbook Requirements

As of September 30, a written or electronic log of the transaction is required to be maintained. The log must identify:

1. Name of product(s) sold;

2. Quantity sold;

3. Name, address and signature of purchaser (entered by purchaser);

Retailers are required to ask for photo identification to verify the information entered by the purchaser.

4. Date and time of sale (entered by purchaser);

A log is not required to be kept for transactions involving a single sales package of PSE product, if that package contains not more than 60 milligrams (one 4-6 hour adult dose; this exception is not applicable to EPH products).

5. Logbook entries must be maintained for two years;

6. Logbook must include a notice to purchasers that entering false statements or misrepresentations in the logbook may subject the purchasers to criminal penalties under section 1001 of title 18, United States Code. Notice must specify the maximum fine and term of imprisonment.

7. Retailers must maintain logbooks in a secure fashion.

Sales — Restriction on Access

As of September 30, all PSE products regardless of form—including liquid, liquid-filled gel capsules and pediatrics—must be placed behind a counter or in a locked display case. These are the only two options.

The federal law does not provide for preemption of state laws. This means state law prevails whenever it is more restrictive than the new federal law and federal law prevails whenever it is more restrictive than state law.

Therefore, Michigan retailers may no longer opt to place PSE products within 20 feet of an employee who constantly monitors the products or in an area that has constant video surveillance with an antitheft device on every package.

As of September 30, sellers will have two options. Put PSE products:

1. Behind a counter where the public is not permitted, or

2. In a locked case so customers will have to ask employees for assistance.