

HEALTH AND SAFETY CODE

SECTION 11100-11111

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

- (1) Phenyl-2-propanone.
- (2) Methylamine.
- (3) Ethylamine.
- (4) D-lysergic acid.
- (5) Ergotamine tartrate.
- (6) Diethyl malonate.
- (7) Malonic acid.
- (8) Ethyl malonate.
- (9) Barbituric acid.
- (10) Piperidine.
- (11) N-acetylanthranilic acid.
- (12) Pyrrolidine.
- (13) Phenylacetic acid.
- (14) Anthranilic acid.
- (15) Morpholine.
- (16) Ephedrine.
- (17) Pseudoephedrine.
- (18) Norpseudoephedrine.
- (19) Phenylpropanolamine.
- (20) Propionic anhydride.
- (21) Isosafrole.
- (22) Safrole.
- (23) Piperonal.
- (24) Thionyl chloride.
- (25) Benzyl cyanide.
- (26) Ergonovine maleate.
- (27) N-methylephedrine.
- (28) N-ethylephedrine.
- (29) N-methylpseudoephedrine.
- (30) N-ethylpseudoephedrine.
- (31) Chloroephedrine.
- (32) Chloropseudoephedrine.
- (33) Hydriodic acid.
- (34) Gamma-butyrolactone, including butyrolactone; butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone dihydro; dihydro-2(3H)-furanone; tetrahydro-2-furanone; 1,2-butanolide; 1,4-butanolide; 4-butanolide; gamma-hydroxybutyric acid lactone; 3-hydroxybutyric acid lactone and 4-hydroxybutanoic acid lactone with Chemical Abstract Service number (96-48-0).
- (35) 1,4-butanediol, including butanediol; butane-1,4-diol; 1,4-butylene glycol; butylene glycol; 1,4-dihydroxybutane; 1,4-tetramethylene glycol; tetramethylene glycol; tetramethylene 1,4-diol with Chemical Abstract Service number (110-63-4).
- (36) Red phosphorus, including white phosphorus, hypophosphorous acid and its salts, ammonium hypophosphite, calcium hypophosphite,

iron hypophosphite, potassium hypophosphite, manganese hypophosphite, magnesium hypophosphite, sodium hypophosphite, and phosphorous acid and its salts.

(37) Iodine or tincture of iodine.

(38) Any of the substances listed by the Department of Justice in regulations promulgated pursuant to subdivision (b).

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

(c) (1) (A) Any manufacturer, wholesaler, retailer, or other person or entity in this state, prior to selling, transferring, or otherwise furnishing any substance specified in subdivision (a) to any person or business entity in this state or any other state, shall require (i) a letter of authorization from that person or business entity that includes the currently valid business license number or federal Drug Enforcement Administration (DEA) registration number, the address of the business, and a full description of how the substance is to be used, and (ii) proper identification from the purchaser. The manufacturer, wholesaler, retailer, or other person or entity in this state shall retain this information in a readily available manner for three years. The requirement for a full description of how the substance is to be used does not require the person or business entity to reveal their chemical processes that are typically considered trade secrets and proprietary information.

(B) For the purposes of this paragraph, "proper identification" for in-state or out-of-state purchasers includes two or more of the following: federal tax identification number; seller's permit identification number; city or county business license number; license issued by the State Department of Public Health; registration number issued by the federal Drug Enforcement Administration; precursor business permit number issued by the Department of Justice; driver's license; or other identification issued by a state.

(2) (A) Any manufacturer, wholesaler, retailer, or other person or entity in this state that exports a substance specified in subdivision (a) to any person or business entity located in a foreign country shall, on or before the date of exportation, submit to the Department of Justice a notification of that transaction, which notification shall include the name and quantity of the substance to be exported and the name, address, and, if assigned by the foreign country or subdivision thereof, business identification number of the person or business entity located in a foreign country importing the substance.

(B) The department may authorize the submission of the notification on a monthly basis with respect to repeated, regular transactions between an exporter and an importer involving a substance specified in subdivision (a), if the department determines that a pattern of regular supply of the substance exists between the exporter and importer and that the importer has established a record of utilization of the substance for lawful purposes.

(d) (1) Any manufacturer, wholesaler, retailer, or other person or entity in this state that sells, transfers, or otherwise furnishes a substance specified in subdivision (a) to a person or business

entity in this state or any other state shall, not less than 21 days prior to delivery of the substance, submit a report of the transaction, which includes the identification information specified in subdivision (c), to the Department of Justice. The Department of Justice may authorize the submission of the reports on a monthly basis with respect to repeated, regular transactions between the furnisher and the recipient involving the substance or substances if the Department of Justice determines that a pattern of regular supply of the substance or substances exists between the manufacturer, wholesaler, retailer, or other person or entity that sells, transfers, or otherwise furnishes the substance or substances and the recipient of the substance or substances, and the recipient has established a record of utilization of the substance or substances for lawful purposes.

(2) The person selling, transferring, or otherwise furnishing any substance specified in subdivision (a) shall affix his or her signature or otherwise identify himself or herself as a witness to the identification of the purchaser or purchasing individual, and shall, if a common carrier is used, maintain a manifest of the delivery to the purchaser for three years.

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

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

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

(3) Any manufacturer or wholesaler licensed by the California State Board of Pharmacy that sells, transfers, or otherwise furnishes a substance to a licensed pharmacy, physician, dentist, podiatrist, or veterinarian, or a retail distributor as defined in subdivision (h), provided that the manufacturer or wholesaler submits records of any suspicious sales or transfers as determined by the Department of Justice.

(4) Any analytical research facility that is registered with the federal Drug Enforcement Administration of the United States Department of Justice.

(5) A state-licensed health care facility that administers or furnishes a substance to its patients.

(6) (A) Any sale, transfer, furnishing, or receipt of any product that contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine and which is lawfully sold, transferred, or furnished over the counter without a prescription pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.) or regulations adopted thereunder. However, this section shall apply to preparations in solid or liquid dosage form, except pediatric liquid forms, as defined, containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine where the individual transaction involves more than three packages or nine grams of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine.

(B) Any ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine product subsequently removed from exemption pursuant to Section 814 of Title 21 of the United States Code shall similarly no longer be exempt from any state reporting or permitting requirement, unless otherwise reinstated pursuant to subdivision (d) or (e) of Section 814 of Title 21 of the United States Code as an exempt product.

(7) The sale, transfer, furnishing, or receipt of any betadine or povidone solution with an iodine content not exceeding 1 percent in containers of eight ounces or less, or any tincture of iodine not exceeding 2 percent in containers of one ounce or less, that is sold over the counter.

(8) Any transfer of a substance specified in subdivision (a) for purposes of lawful disposal as waste.

(f) (1) Any person specified in subdivision (a) or (d) who does not submit a report as required by that subdivision or who knowingly submits a report with false or fictitious information shall be punished by imprisonment in a county jail not exceeding six months, by a fine not exceeding five thousand dollars (\$5,000), or by both the fine and imprisonment.

(2) Any person specified in subdivision (a) or (d) who has previously been convicted of a violation of paragraph (1) shall, upon a subsequent conviction thereof, be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or by imprisonment in a county jail not exceeding one year, by a fine not exceeding one hundred thousand dollars (\$100,000), or by both the fine and imprisonment.

(g) (1) Except as otherwise provided in subparagraph (A) of paragraph (6) of subdivision (e), it is unlawful for any manufacturer, wholesaler, retailer, or other person to sell, transfer, or otherwise furnish a substance specified in subdivision (a) to a person under 18 years of age.

(2) Except as otherwise provided in subparagraph (A) of paragraph (6) of subdivision (e), it is unlawful for any person under 18 years of age to possess a substance specified in subdivision (a).

(3) Notwithstanding any other law, it is unlawful for any retail distributor to (i) sell in a single transaction more than three packages of a product that he or she knows to contain ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine, or (ii) knowingly sell more than nine grams of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine, other than pediatric liquids as defined. Except as otherwise provided in this section, the three package per transaction limitation or nine gram per transaction limitation imposed by this paragraph shall apply to any product that is lawfully sold, transferred, or furnished over the counter without a prescription pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.), or regulations adopted thereunder, unless exempted from the requirements of the federal Controlled Substances Act by the federal Drug Enforcement Administration pursuant to Section 814 of Title 21 of the United States Code.

(4) (A) A first violation of this subdivision is a misdemeanor.

(B) Any person who has previously been convicted of a violation of this subdivision shall, upon a subsequent conviction thereof, be punished by imprisonment in a county jail not exceeding one year, by a fine not exceeding ten thousand dollars (\$10,000), or by both the fine and imprisonment.

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

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

(2) "General merchandise store" is any entity described in Codes 5311 to 5399, inclusive, and Code 5499 of the Standard Industrial

Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

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

(4) "Pediatric liquid" means a nonencapsulated liquid whose unit measure according to product labeling is stated in milligrams, ounces, or other similar measure. In no instance shall the dosage units exceed 15 milligrams of phenylpropanolamine or pseudoephedrine per five milliliters of liquid product, except for liquid products primarily intended for administration to children under two years of age for which the recommended dosage unit does not exceed two milliliters and the total package content does not exceed one fluid ounce.

(5) "Retail distributor" means a grocery store, general merchandise store, drugstore, or other related entity, the activities of which, as a distributor of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine products, are limited exclusively to the sale of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine products for personal use both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales. "Retail distributor" includes an entity that makes a direct sale, but does not include the parent company of that entity if the company is not involved in direct sales regulated by this article.

(6) "Sale for personal use" means the sale in a single transaction to an individual customer for a legitimate medical use of a product containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine in dosages at or below that specified in paragraph (3) of subdivision (g). "Sale for personal use" also includes the sale of those products to employers to be dispensed to employees from first-aid kits or medicine chests.

(i) It is the intent of the Legislature that this section shall preempt all local ordinances or regulations governing the sale by a retail distributor of over-the-counter products containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine.

11100.05. (a) In addition to any fine or imprisonment imposed under subdivision (f) of Section 11100 or subdivision (j) of Section 11106 of the Health and Safety Code, the following drug cleanup fine shall be imposed:

(1) Ten thousand dollars (\$10,000) for violations described in paragraph (1) of subdivision (f) of Section 11100.

(2) One hundred thousand dollars (\$100,000) for violations described in paragraph (2) of subdivision (f) of Section 11100.

(3) Ten thousand dollars (\$10,000) for violations described in subdivision (j) of Section 11106.

(b) At least once a month, all fines collected under this section shall be transferred to the State Treasury for deposit in the Clandestine Drug Lab Clean-up Account. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

11100.1. (a) Any manufacturer, wholesaler, retailer, or other person or entity in this state that obtains from a source outside of this state any substance specified in subdivision (a) of Section 11100 shall submit a report of that transaction to the Department of Justice 21 days in advance of obtaining the substance. However, the Department of Justice may authorize the submission of reports within 72 hours, or within a timeframe and in a manner acceptable to the Department of Justice, after the actual physical obtaining of a specified substance with respect to repeated transactions between a furnisher and an obtainer involving the substances, if the Department of Justice determines that the obtainer has established a record of utilization of the substances for lawful purposes. This section does not apply to any person whose prescribing or dispensing activities are subject to the reporting requirements set forth in Section 11164; any manufacturer or wholesaler who is licensed by the California State Board of Pharmacy and also registered with the federal Drug Enforcement Administration of the United States Department of Justice; any analytical research facility that is registered with the federal Drug Enforcement Administration of the United States Department of Justice; or any state-licensed health care facility.

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

(2) Any person specified in subdivision (a) who has been previously convicted of a violation of subdivision (a) who subsequently does not submit a report as required by subdivision (a) shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or by imprisonment in a county jail not exceeding one year, by a fine not exceeding one hundred thousand dollars (\$100,000), or by both that fine and imprisonment.

11101. The State Department of Justice shall provide a common reporting form for the substances in Section 11100 which contains at least the following information:

- (a) Name of the substance.
- (b) Quantity of the substance sold, transferred, or furnished.
- (c) The date the substance was sold, transferred, or furnished.
- (d) The name and address of the person buying or receiving such substance.
- (e) The name and address of the manufacturer, wholesaler, retailer, or other person selling, transferring, or furnishing such substance.

11102. The Department of Justice may adopt all regulations necessary to carry out the provisions of this part.

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

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

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

11104. (a) Any manufacturer, wholesaler, retailer, or other person or entity that sells, transfers, or otherwise furnishes any of the substances listed in subdivision (a) of Section 11100 with knowledge or the intent that the recipient will use the substance to unlawfully manufacture a controlled substance is guilty of a felony.

(b) Any manufacturer, wholesaler, retailer, or other person or entity that sells, transfers, or otherwise furnishes any laboratory glassware or apparatus, any chemical reagent or solvent, or any combination thereof, or any chemical substance specified in Section 11107.1, with knowledge that the recipient will use the goods or chemical substance to unlawfully manufacture a controlled substance, is guilty of a misdemeanor.

(c) Any person who receives or distributes any substance listed in subdivision (a) of Section 11100, or any laboratory glassware or apparatus, any chemical reagent or solvent, or any combination thereof, or any chemical substance specified in Section 11107.1, with the intent of causing the evasion of the recordkeeping or reporting requirements of this article, is guilty of a misdemeanor.

11104.5. Any person who knowingly or intentionally possesses any laboratory glassware or apparatus, any chemical reagent or solvent, or any combination thereof, or any chemical substance specified in paragraph (36) or (37) of subdivision (a) of Section 11100, Section 11107, or Section 11107.1, with the intent to manufacture a controlled substance, is guilty of a misdemeanor.

11105. (a) It is unlawful for any person to knowingly make a false statement in connection with any report or record required under this article.

(b) (1) Any person who violates this section shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or by imprisonment in a county jail not exceeding one year, or by a fine not exceeding five thousand dollars (\$5,000), or by both that fine and imprisonment.

(2) Any person who has been previously convicted of violating this section and who subsequently violates this section shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for two, three, or four years, or by a fine not exceeding one hundred thousand dollars (\$100,000), or by both that fine and imprisonment.

11106. (a) (1) (A) Any manufacturer, wholesaler, retailer, or any other person or entity in this state that sells, transfers, or otherwise furnishes any substance specified in subdivision (a) of Section 11100 to a person or business entity in this state or any other state or who obtains from a source outside of the state any substance specified in subdivision (a) of Section 11100 shall submit an application to, and obtain a permit for the conduct of that business from, the Department of Justice. For any substance added to the list set forth in subdivision (a) of Section 11100 on or after January 1, 2002, the Department of Justice may postpone the effective date of the requirement for a permit for a period not to exceed six months from the listing date of the substance.

(B) An intracompany transfer does not require a permit if the transferor is a permittee. Transfers between company partners or between a company and an analytical laboratory do not require a permit if the transferor is a permittee and a report as to the nature and extent of the transfer is made to the Department of Justice pursuant to Section 11100 or 11100.1.

(C) This paragraph shall not apply to any manufacturer, wholesaler, or wholesale distributor who is licensed by the California State Board of Pharmacy and also registered with the federal Drug Enforcement Administration of the United States Department of Justice; any pharmacist or other authorized person who sells or furnishes a substance upon the prescription of a physician, dentist, podiatrist, or veterinarian; any state-licensed health care facility, physician, dentist, podiatrist, veterinarian, or veterinary food-animal drug retailer licensed by the California State Board of Pharmacy that administers or furnishes a substance to a patient; or any analytical research facility that is registered with the federal Drug Enforcement Administration of the United States Department of Justice.

(D) This paragraph shall not apply to the sale, transfer, furnishing, or receipt of any betadine or povidone solution with an iodine content not exceeding 1 percent in containers of eight ounces or less, or any tincture of iodine not exceeding 2 percent in containers of one ounce or less, that is sold over the counter.

(2) Except as provided in paragraph (3), no permit shall be required of any manufacturer, wholesaler, retailer, or other person or entity for the sale, transfer, furnishing, or obtaining of any product which contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine and which is lawfully sold, transferred, or furnished over the counter without a prescription or by a prescription pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.) or regulations adopted thereunder.

(3) A permit shall be required for the sale, transfer, furnishing, or obtaining of preparations in solid or liquid dosage form containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine, unless (A) the transaction involves the sale of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine products by retail distributors as defined by this article over the counter and without a prescription, or (B) the transaction is made by a person or business entity exempted from the permitting requirements of this subdivision under paragraph (1).

(b) (1) The department shall provide application forms, which are to be completed under penalty of perjury, in order to obtain information relating to the identity of any applicant applying for a

permit, including, but not limited to, the business name of the applicant or the individual name, and if a corporate entity, the names of its board of directors, the business in which the applicant is engaged, the business address of the applicant, a full description of any substance to be sold, transferred, or otherwise furnished or to be obtained, the specific purpose for the use, sale, or transfer of those substances specified in subdivision (a) of Section 11100, the training, experience, or education relating to this use, and any additional information requested by the department relating to possible grounds for denial as set forth in this section, or by applicable regulations adopted by the department.

(2) The requirement for the specific purpose for the use, sale, or transfer of those substances specified in subdivision (a) of Section 11100 does not require applicants or permittees to reveal their chemical processes that are typically considered trade secrets and proprietary business information.

(c) Applicants and permittees shall authorize the department, or any of its duly authorized representatives, as a condition of being permitted, to make any examination of the books and records of any applicant, permittee, or other person, or visit and inspect the business premises of any applicant or permittee during normal business hours, as deemed necessary to enforce this chapter.

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

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

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

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

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

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

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

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

(8) If any individual owner, manager, agent, representative, or employee for the applicant who has direct access, management, or control for any substance listed under subdivision (a) of Section 11100, willfully violates or has been convicted of violating, any federal, state, or local criminal statute, rule, or ordinance

regulating the manufacture, maintenance, disposal, sale, transfer, or furnishing of any of those substances.

(e) Notwithstanding any other provision of law, an investigation of an individual applicant's qualifications, or the qualifications of an applicant's owner, manager, agent, representative, or employee who has direct access, management, or control of any substance listed under subdivision (a) of Section 11100, for a permit may include review of his or her summary criminal history information pursuant to Sections 11105 and 13300 of the Penal Code, including, but not limited to, records of convictions, regardless of whether those convictions have been expunged pursuant to Section 1203.4 of the Penal Code, and any arrests pending adjudication.

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

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

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

(i) A permit granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, following the timely filing of a complete renewal application with all supporting documents, the payment of a permit renewal fee not to exceed the application processing costs of the department, and a review of the application by the department.

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

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

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

(1) (1) An applicant, or an applicant's employees who have direct access, management, or control of any substance listed under subdivision (a) of Section 11100, for an initial permit shall submit with the application one set of 10-print fingerprints for each individual acting in the capacity of an owner, manager, agent, or representative for the applicant, unless the applicant's employees are exempted from this requirement by the Department of Justice. These exemptions may only be obtained upon the written request of the applicant.

(2) In the event of subsequent changes in ownership, management, or employment, the permittee shall notify the department in writing within 15 calendar days of the changes, and shall submit one set of 10-print fingerprints for each individual not previously fingerprinted under this section.

11106.5. (a) The Department of Justice, or an administrative law judge sitting alone as provided in subdivision (h), may upon petition issue an interim order suspending any permittee or imposing permit

restrictions. The petition shall include affidavits that demonstrate, to the satisfaction of the department, both of the following:

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

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

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

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

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

(1) Be represented by counsel.

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

(3) Present affidavits and other documentary evidence.

(4) Present oral argument.

(e) The department, or an administrative law judge sitting alone as provided in subdivision (h), shall issue a decision on the petition for interim order within five business days following submission of the matter. The standard of proof required to obtain an interim order pursuant to this section shall be a preponderance of the evidence standard. If the interim order was previously issued without notice, the department shall determine whether the order shall remain in effect, be dissolved, or be modified.

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

(g) Interim orders shall be subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure and shall be heard only in the superior court in and for the County of Sacramento, San Francisco, Los Angeles, or San Diego. The review of an interim order shall be limited to a determination of whether the department abused

its discretion in the issuance of the interim order. Abuse of discretion is established if the respondent department has not proceeded in the manner required by law, or if the court determines that the interim order is not supported by substantial evidence in light of the whole record.

(h) The department may, in its sole discretion, delegate the hearing on any petition for an interim order to an administrative law judge in the Office of Administrative Hearings. If the department hears the noticed petition itself, an administrative law judge shall preside at the hearing, rule on the admission and exclusion of evidence, and advise the department on matters of law. The department shall exercise all other powers relating to the conduct of the hearing, but may delegate any or all of them to the administrative law judge. When the petition has been delegated to an administrative law judge, he or she shall sit alone and exercise all of the powers of the department relating to the conduct of the hearing. A decision issued by an administrative law judge sitting alone shall be final when it is filed with the department. If the administrative law judge issues an interim order without notice, he or she shall preside at the noticed hearing, unless unavailable, in which case another administrative law judge may hear the matter. The decision of the administrative law judge sitting alone on the petition for an interim order is final, subject only to judicial review in accordance with subdivision (g).

(i) (1) Failure to comply with an interim order issued pursuant to subdivision (a) or (b) shall constitute a separate cause for disciplinary action against any permittee, and may be heard at, and as a part of, the noticed hearing provided for in subdivision (f). Allegations of noncompliance with the interim order may be filed at any time prior to the rendering of a decision on the accusation. Violation of the interim order is established upon proof that the permittee was on notice of the interim order and its terms, and that the order was in effect at the time of the violation. The finding of a violation of an interim order made at the hearing on the accusation shall be reviewed as a part of any review of a final decision of the department.

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

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

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

11106.7. (a) The Department of Justice may establish, by regulation, a system for the issuance to a permittee of a citation

which may contain an order of abatement or an order to pay an administrative fine assessed by the Department of Justice, if the permittee is in violation of any provision of this chapter or any regulation adopted by the Department of Justice pursuant to this chapter.

(b) The system shall contain the following provisions:

(1) Citations shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law or regulation of the department determined to have been violated.

(2) Whenever appropriate, the citation shall contain an order of abatement fixing a reasonable time for abatement of the violation.

(3) In no event shall the administrative fine assessed by the department exceed two thousand five hundred dollars (\$2,500) for each violation. In assessing a fine, due consideration shall be given to the appropriateness of the amount of the fine with respect to such factors as the gravity of the violation, the good faith of the permittee, and the history of previous violations.

(4) An order of abatement or a fine assessment issued pursuant to a citation shall inform the permittee that if the permittee desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the department within 30 days of the date of issuance of the citation or assessment. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(5) In addition to requesting a hearing, the permittee may, within 10 days after service of the citation, request in writing an opportunity for an informal conference with the department regarding the citation. At the conclusion of the informal conference, the department may affirm, modify, or dismiss the citation, including any fine levied or order of abatement issued. The decision shall be deemed to be a final order with regard to the citation issued, including the fine levied and the order of abatement. However, the permittee does not waive its right to request a hearing to contest a citation by requesting an informal conference. If the citation is dismissed after the informal conference, the request for a hearing on the matter of the citation shall be deemed to be withdrawn. If the citation, including any fine levied or order of abatement, is modified, the citation originally issued shall be considered withdrawn and a new citation issued. If a hearing is requested for a subsequent citation, it shall be requested within 30 days of service of that subsequent citation.

(6) Failure of a permittee to pay a fine within 30 days of the date of assessment or comply with an order of abatement within the fixed time, unless the citation is being appealed, may result in disciplinary action being taken by the department. If a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the renewal of the permit. A permit shall not be renewed without payment of the renewal fee and fine.

(c) The system may contain the following provisions:

(1) A citation may be issued without the assessment of an administrative fine.

(2) Assessment of administrative fines may be limited to only particular violations of the law or department regulations.

(d) Notwithstanding any other provision of law, if a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as satisfactory resolution of the

matter for purposes of public disclosure.

(e) Administrative fines collected pursuant to this section shall be deposited in the General Fund.

(f) The sanctions authorized under this section shall be separate from, and in addition to, any other administrative, civil, or criminal remedies; however, a criminal action may not be initiated for a specific offense if a citation has been issued pursuant to this section for that offense, and a citation may not be issued pursuant to this section for a specific offense if a criminal action for that offense has been filed.

(g) Nothing in this section shall be deemed to prevent the department from serving and prosecuting an accusation to suspend or revoke a permit if grounds for that suspension or revocation exist.

11107. (a) Any manufacturer, wholesaler, retailer, or other person or entity in this state that sells to any person or entity in this state or any other state, any laboratory glassware or apparatus, any chemical reagent or solvent, or any combination thereof, where the value of the goods sold in the transaction exceeds one hundred dollars (\$100) shall do the following:

(1) Notwithstanding any other law, in any face-to-face or will-call sale, the seller shall prepare a bill of sale which identifies the date of sale, cost of product, method of payment, specific items and quantities purchased, and the proper purchaser identification information, all of which shall be entered onto the bill of sale or a legible copy of the bill of sale, and shall also affix on the bill of sale his or her signature as witness to the purchase and identification of the purchaser.

(A) For the purposes of this section, "proper purchaser identification" includes a valid motor vehicle operator's license or other official and valid state-issued identification of the purchaser that contains a photograph of the purchaser, and includes the residential or mailing address of the purchaser, other than a post office box number, the motor vehicle license number of the motor vehicle used by the purchaser at the time of purchase, a description of how the substance is to be used, and the signature of the purchaser.

(B) The seller shall retain the original bill of sale containing the purchaser identification information for five years in a readily presentable manner, and present the bill of sale containing the purchaser identification information upon demand by any law enforcement officer or authorized representative of the Attorney General. Copies of these bills of sale obtained by representatives of the Attorney General shall be maintained by the Department of Justice for a period of not less than five years.

(2) (A) Notwithstanding any other law, in all sales other than face-to-face or will-call sales the seller shall maintain for a period of five years the following sales information: the name and address of the purchaser, date of sale, product description, cost of product, method of payment, method of delivery, delivery address, and valid identifying information.

(B) For the purposes of this paragraph, "valid identifying information" includes two or more of the following: federal tax identification number; resale tax identification number; city or county business license number; license issued by the State

Department of Public Health; registration number issued by the federal Drug Enforcement Administration; precursor business permit number issued by the Department of Justice; motor vehicle operator's license; or other identification issued by a state.

(C) The seller shall, upon the request of any law enforcement officer or any authorized representative of the Attorney General, produce a report or record of sale containing the information in a readily presentable manner.

(D) If a common carrier is used, the seller shall maintain a manifest regarding the delivery in a readily presentable manner and for a period of five years.

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

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

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

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

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

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

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

11107.1. (a) Any manufacturer, wholesaler, retailer, or other person or entity in this state that sells to any person or entity in this state or any other state any quantity of sodium cyanide, potassium cyanide, cyclohexanone, bromobenzene, magnesium turnings, mercuric chloride, sodium metal, lead acetate, palladium black, hydrogen chloride gas, trichlorofluoromethane (fluorotrichloromethane), dichlorodifluoromethane, 1,1,2-trichloro-1,2,2-trifluoroethane (trichlorotrifluoroethane), sodium acetate, or acetic anhydride shall do the following:

(1) (A) Notwithstanding any other provision of law, in any face-to-face or will-call sale, the seller shall prepare a bill of sale which identifies the date of sale, cost of sale, method of payment, the specific items and quantities purchased and the proper purchaser identification information, all of which shall be entered onto the bill of sale or a legible copy of the bill of sale, and shall also affix on the bill of sale his or her signature as witness to the purchase and identification of the purchaser.

(B) For the purposes of this paragraph, "proper purchaser identification" includes a valid driver's license or other official and valid state-issued identification of the purchaser that contains a photograph of the purchaser, and includes the residential or

mailing address of the purchaser, other than a post office box number, the motor vehicle license number of the motor vehicle used by the purchaser at the time of purchase, a description of how the substance is to be used, the Environmental Protection Agency certification number or resale tax identification number assigned to the individual or business entity for which the individual is purchasing any chlorofluorocarbon product, and the signature of the purchaser.

(C) The seller shall retain the original bill of sale containing the purchaser identification information for five years in a readily presentable manner, and present the bill of sale containing the purchaser identification information upon demand by any law enforcement officer or authorized representative of the Attorney General. Copies of these bills of sale obtained by representatives of the Attorney General shall be maintained by the Department of Justice for a period of not less than five years.

(2) (A) Notwithstanding any other law, in all sales other than face-to-face or will-call sales the seller shall maintain for a period of five years the following sales information: the name and address of the purchaser, date of sale, product description, cost of product, method of payment, method of delivery, delivery address, and valid identifying information.

(B) For the purposes of this paragraph, "valid identifying information" includes two or more of the following: federal tax identification number; resale tax identification number; city or county business license number; license issued by the State Department of Public Health; registration number issued by the federal Drug Enforcement Administration; precursor business permit number issued by the Department of Justice; driver's license; or other identification issued by a state.

(C) The seller shall, upon the request of any law enforcement officer or any authorized representative of the Attorney General, produce a report or record of sale containing the information in a readily presentable manner.

(D) If a common carrier is used, the seller shall maintain a manifest regarding the delivery in a readily presentable manner for a period of five years.

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

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

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

(c) (1) A first violation of this section is a misdemeanor.

(2) Any person who has previously been convicted of a violation of this section shall, upon a subsequent conviction thereof, be punished by imprisonment in a county jail not exceeding one year, by a fine not exceeding one hundred thousand dollars (\$100,000), or both the fine and imprisonment.

11110. (a) It shall be an infraction, punishable by a fine not exceeding two hundred fifty dollars (\$250), for any person, corporation, or retail distributor to willfully and knowingly supply, deliver, or give possession of a drug, material, compound, mixture, preparation, or substance containing any quantity of dextromethorphan (the dextrorotatory isomer of 3-methoxy-N-methylmorphinan, including its salts, but not including its racemic or levorotatory forms) to a person under 18 years of age in an over-the-counter sale without a prescription.

(b) It shall be prima facie evidence of a violation of this section if the person, corporation, or retail distributor making the sale does not require and obtain bona fide evidence of majority and identity from the purchaser, unless from the purchaser's outward appearance the person making the sale would reasonably presume the purchaser to be 25 years of age or older.

(c) Proof that a person, corporation, or retail distributor, or his or her agent or employee, demanded, was shown, and acted in reasonable reliance upon, bona fide evidence of majority and identity shall be a defense to any criminal prosecution under this section. As used in this section, "bona fide evidence of majority and identity" means a document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, California state identification card, identification card issued to a member of the Armed Forces, or other form of identification that bears the name, date of birth, description, and picture of the person.

(d) (1) Notwithstanding any other provision of this section, a retail clerk who fails to require and obtain proof of age from the purchaser shall not be guilty of an infraction pursuant to subdivision (a) or subject to any civil penalties.

(2) This subdivision shall not apply to a retail clerk who is a willful participant in an ongoing criminal conspiracy to violate this section.

11111. A person, corporation, or retail distributor that sells or makes available products containing dextromethorphan, as defined in subdivision (a) of Section 11110, in an over-the-counter sale without a prescription shall, if feasible, use a cash register that is equipped with an age-verification feature to monitor age-restricted items. The cash register shall be programmed to direct the retail clerk making the sale to request bona fide evidence of majority and identity, as described in subdivision (c) of Section 11110, before a product containing dextromethorphan may be purchased.

Miscellaneous Offenses and Provisions

11366.7. (a) This section shall apply to the following:

- (1) Any chemical or drug.
- (2) Any laboratory apparatus or device.

(b) Any retailer or wholesaler who sells any item in paragraph (1) or (2) of subdivision (a) with knowledge or the intent that it will be used to unlawfully manufacture, compound, convert, process, or prepare a controlled substance for unlawful sale or distribution, shall be punished by imprisonment in a county jail for not more than one year, or in the state prison, or by a fine not exceeding twenty-five thousand dollars (\$25,000), or by both that imprisonment and fine. Any fine collected pursuant to this section shall be distributed as specified in Section 1463.10 of the Penal Code.