

Title 5. Criminal Offenses
Chapter III. Generally, Department of Health
Subchapter A. Generally
Part 23. Rules Pertaining to Drug Precursors

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"SEVERABILITY

If any provision of these Rules and Regulations or Amendments or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Rules and Regulations or Amendments which can be given effect without the invalid provision or application and to this end the provisions of these Rules and Regulations and Amendments are declared to be severable."

REPEAL

All Regulations and parts of Regulations in conflict herewith are hereby repealed.

CERTIFICATION

This will certify the foregoing Rules and Regulations Pertaining to Drug Precursors were adopted by the Arkansas State Board of Health at a regular session of the Board of held in Little Rock, Arkansas on the 23rd day of April, 1992 and after a Public Hearing on the 2nd Day of March, 1992 held in Little Rock, Arkansas at the State Health Building."

"SECTION I AUTHORITY

The following list of Drug Precursors are proposed pursuant to Act 954 of 1991."

SECTION II PURPOSE

Due consideration has been given applicable federal regulation regarding the list of Drug Precursors.

SECTION III GENERAL REQUIREMENTS

(See attached)

SECTION IV REPEAL

All rules and regulations and parts thereof in conflict herewith are hereby repealed."

Subpart 1. Generally

5 CAR § 23-101. List of drug precursors.

List of drug precursors:

- (1) Anthranilic acid and its salts;
- (2) Benzyl cyanide;
- (3) Ephedrine, its salts, optical isomers, and salts of optical isomers;
- (4) Ergonovine and its salts;
- (5) Ergotamine and its salts;
- (6) N-Acetylanthranilic acid and its salts;
- (7) Norpseudoephedrine, its salts, optical isomers, and salts of optical isomers;
- (8) Phenylacetic acid and its salts;
- (9) Phenylpropanolamine, its salts, optical isomers, and salts of optical isomers;
- (10) Piperidine and its salts;
- (11) Pseudoephedrine, its salts, optical isomers, and salts of optical isomers;
- (12) 3,4-Methylenedioxyphenyl-2-propanone;
- (13) Methylamine and its salts;
- (14) Ethylamine and its salts;
- (15) D-Lysergic acid, its salts, optical isomers, and salts of optical isomers;
- (16) Propionic anhydride;
- (17) Insosafrole (Isosafrole);
- (18) Safrole;
- (19) Piperonal;
- (20) N-Methylephedrine, its salts, optical isomers, and salts of optical isomers (N-Methylephedrine);
- (21) N-Ethylephedrine, its salts, optical isomers, and salts of optical isomers;

(22) N-Methylpseudoephedrine, its salts, optical isomers, and salts of optical isomers;

(23) N-Ethylpseudoephedrine, its salts, optical isomers, and salts of optical isomers; and

(24) Hydriotic acid (Hydriodic Acid).

Authority. Arkansas Code § 5-64-415.

5 CAR § 23-102. License required.

Every person who manufactures, possesses, transfers, or transports any drug precursor as defined by this part or who proposes to engage in the manufacture, possession, transfer, or transportation of any drug precursor as defined by this part must obtain annually, a license issued by the Department of Health, unless exempted by law or rule of the department.

Authority. Arkansas Code § 5-64-415.

5 CAR § 23-103. Records to be kept — Order forms.

(a) A manufacturer, wholesaler, retailer, or other persons who are licensed by the Department of Health to sell, transfer, or otherwise furnish any drug precursor to a person shall:

(1) Make an accurate and legible record of the transaction; and

(2) Maintain the record for a period of at least two (2) years after the date of the transaction.

(b) Except as otherwise provided in this part, each licensee shall submit to the department, at least twenty-one (21) days before the delivery of the drug precursor, a report of the transaction on form "DC 954 R" provided by the department.

(c)(1) Any difference between the quantity of any drug precursor received and the quantity shipped shall be reported to the department within three (3) days after the receipt of actual knowledge of the discrepancy.

(2) When applicable, any report made pursuant to the law shall also include the:

(A) Name of any common carrier or person who transported the substance; and

(B) Date of shipment of the substance.

(d) Each licensee who receives from a source outside of this state any drug precursor listed in this part shall submit a report of such transaction to the department on form "DC 954 R".

(e) The department may authorize the licensee to submit a comprehensive monthly report instead of the report of each shipment twenty-one (21) days before delivery if it has been determined by the Secretary of the Department of Health that:

(1) There is a pattern of regular supply and purchase of the drug precursor between the furnisher and the recipient; or

(2) The recipient has established a record of utilization of the drug precursor solely for lawful purposes.

(f) All records kept by licensee pursuant to this part shall be open to inspection by authorized investigators of the department and the Division of Arkansas State Police during:

(1) Normal business hours; and

(2) At all other reasonable times.

Authority. Arkansas Code § 5-64-415.

5 CAR § 23-104. Reports of loss.

The theft or loss of any drug precursor discovered by any person licensed by this part shall be reported to the Department of Health and the Division of Arkansas State Police within three (3) days after such discovery.

Authority. Arkansas Code § 5-64-415.

5 CAR § 23-105. Exemptions from license requirements.

(a) The following persons are not required to be licensed under this part and may lawfully possess drug precursors:

(1) Physicians;

(2) Dentists;

(3) Pharmacists;

(4) Veterinarians;

(5) Podiatrists;

(6) An agent of any manufacturer, or wholesaler of any drug precursor, if he or she is acting in the usual course of his or her principal's business or employment;

(7) An employee of a licensed common or contract carrier or licensed warehouseman whose possession of any drug precursor is in the usual course of the licensed common or contract carrier or licensed warehouseman's business;

(8) A student enrolled in a college chemistry class for credit if the:

(A) Student's use of the drug precursor is for a bona fide educational purpose; and

(B) Educational institution otherwise possesses all the necessary licenses required by the Department of Health;

(9) Officers or employees of appropriate agencies of federal, state, or local government and law enforcement agencies acting pursuant to their official duties; and

(10) Every researcher, including analytical laboratories, experimenting with, studying, or testing any drug analog who is licensed by the department.

(b) The department may waive the requirement for licensing of certain manufacturers upon application for exemption if it is consistent with the public health and safety.

Authority. Arkansas Code § 5-64-415.

5 CAR § 23-106. Fees.

(a) The Department of Health shall charge a fee of twenty-five dollars (\$25.00) annually to license persons to manufacture, possess, transfer, or transport any drug precursor.

(b) When the department suspends or revokes a license and the revocation order becomes final:

(1) All expenses of disposing of the forfeited drug precursors shall be borne by the licensee;

(2) The court may order the licensee to pay a reasonable sum of money to the department to cover the expenses of disposition; and

(3) The department is authorized to seek enforcement of the order of payment or reimbursement for any expenses through all lawful means.

Authority. Arkansas Code § 5-64-415.

5 CAR § 23-107. Denial, revocation, or suspension of license.

The Department of Health may deny, revoke, or suspend a license issued pursuant to this part for any of the following reasons:

(1) If a licensee is convicted of, or has accepted by a court a plea of guilty or nolo contendere to a felony under any state or federal law relating to a controlled substance or a drug precursor;

(2)(A) If a licensee has his or her federal registration to manufacture, conduct research on, distribute, or dispense a controlled substance or a drug precursor suspended or revoked.

(B) The department may limit revocation or suspension of a license to the particular controlled substance or drug precursor which was the basis for revocation or suspension; or

(3) If a licensee commits an unlawful act as enumerated in subsection (9) of Acts 1991, No. 954.

Authority. Arkansas Code § 5-64-415.