

ORDINANCE NO. 8951 (NEW SERIES)

AN ORDINANCE ADDING CHAPTER 13 TO DIVISION 2
OF TITLE 3 OF THE SAN DIEGO COUNTY CODE OF REGULATORY
ORDINANCES RELATING TO THE SALE OF OVER-THE-COUNTER
PRODUCTS CONTAINING EPHEDRINE

The Board of Supervisors of the County of San Diego do ordain as follows:

WHEREAS, the Board of Supervisors of the County of San Diego finds that ephedrine, a white, odorless, powdered or crystalline alkaloid, isolated from shrubs of the genus *Ephedra* or made synthetically, has legitimate uses including the treatment of allergies and asthma; and

WHEREAS, the Board of Supervisors of the County of San Diego finds that in addition to its legitimate uses, ephedrine has many illegal uses, including the manufacture of methamphetamine, and that in order to circumvent the legal restrictions on the purchase of ephedrine, criminals involved in the illegal manufacture of methamphetamine extract the ephedrine base from over-the-counter products, such as decongestants, antihistamines, dietary supplements and "energy enhancers," containing as an ingredient ephedrine or pseudoephedrine; and

WEREHAS, the Board of Supervisors of the County of San Diego finds that Southern California generally, and San Diego County specifically, has become known to narcotics officers and drug enforcement agents for its high incidence of illicit manufacture, sale and use of methamphetamine; and

WHEREAS, the Board of Supervisors of the County of San Diego finds that there is a current and immediate threat to the public health, safety and welfare in that the manufacture, processing, transportation, possession and sales of illicit narcotics and drugs are inherently dangerous and that chemicals, compounds, substances, byproducts, and wastes that are associated with the manufacture of illicit narcotics and drugs are both dangerous and injurious to the health, welfare, and safety of the citizens of the County of San Diego; and

WHEREAS, the Board of Supervisors of the County of San Diego finds that there has been an increase in the sales, thefts and possession of over-the-counter products

that contain as an ingredient ephedrine, pseudoephedrine, ephedrine hydrochloride, pseudoephedrine hydrochloride, or pseudoephedrine sulfate, as well as other substances and products associated with the manufacture of methamphetamine, and that retailers are regularly victimized by persons who steal these products and substances; and

WHEREAS, the Board of Supervisors of the County of San Diego finds that members of the general public do not normally purchase the described products in multiple quantities, and that to place reasonable limitations on the quantity of such products that may be sold to or purchased by a person on a single day will not unduly restrict legitimate businesses or customers from selling or purchasing the described products. NOW THEREFORE,

Section 1. Chapter 13 is hereby added to division 2 of title 3 of the San Diego County Code of Regulatory Ordinance to read as follows:

CHAPTER 13

LIMITS ON SALES OF PRODUCTS CONTAINING EPHEDRINE

Sec. 32.1301. FINDINGS AND INTENT. The Board of Supervisors of the County of San Diego finds and declares that:

(a) In addition to its legal uses, ephedrine is used in the illegal manufacture of methamphetamine, and illicit drugs manufacturers extract ephedrine from various over-the-counter products containing as an ingredient ephedrine or pseudoephedrine.

(b) Southern California generally and San Diego County specifically has become known to narcotics officers and drug enforcement agents for its high incidence of illicit manufacture, sale and use of methamphetamine.

(c) There is a current and immediate threat to the public health, safety and welfare in that the manufacture, processing, transportation, possession,

and sales of illicit narcotics and drugs are inherently dangerous, and that the chemicals, compounds, substances, byproducts, and wastes associated with the manufacture of illicit narcotics and drugs are both dangerous and injurious to the health, welfare, and safety of the citizens of the County of San Diego.

(d) There has been an increase in the sales, thefts and possession of over-the-counter products that contain as an ingredient ephedrine, pseudoephedrine, ephedrine hydrochloride, pseudoephedrine hydrochloride or pseudoephedrine sulfate, as well as other products associated with the manufacture of methamphetamine.

(e) The reasonable limitations found in this chapter on the quantity of products containing ephedrine that may be sold to or purchased by a customer on a single day will assist the County in its efforts to combat the insidious criminal methods of illegal ephamphetamine manufactures in the County, and will not unduly restrict legitimate business or customers from selling or buying these products.

Sec. 132.1302. DEFINITIONS. Except as otherwise provided, for purposes of this chapter:

(a) "Count" means the number of pills, tablets, capsules or individual units of a substance contained within an individual package.

(b) "Customer" means any person who purchases or acquires products from any retail store.

(c) "Ephedrine" means any drug, substance or compound, whether legal or illegal, that contains ephedrine, pseudoephedrine, ephedrine hydrochloride, pseudoephedrine hydrochloride or pseudoephedrine sulfate. "Ephedrine" does not mean naturally occurring ephedra alkaloids unless they are spiked with synthetic ephedrine or pseudoephedrine.

(d) "Package" means any bottle, box, blister pack or other container in which products containing ephedrine are sold.

(e) "Person" has the same meaning as a County Code section 12.115.

(f)"Retail store" means any single geographic location of any business, company, corporation, person, employee or associate, that sells products to any customer. It does not include any wholesaler engaged in a wholesale transaction.

(g)"Sell" means to furnish, give away, exchange, transfer, deliver, surrender, distribute, or supply, whether or not for monetary gain or other consideration.

(h)"Wholesaler" means one whose business is the selling of goods in gross to retail stores for the purposes of resale.

Sec. 32.1303. LIMITATIONS ON THE SALE OR PURCHASE OF EPHEDRINE PRODUCTS. (a)It is unlawful for any person during a single transaction to sell to a customer more than three packages of products containing ephedrine.

(b)It is unlawful for any person during a single transaction to sell to a customer products containing ephedrine where the total count exceeds 100.

(c)It is unlawful for any customer on any single day to purchase or acquire more than three packages of products containing ephedrine.

(d)It is unlawful for any customer on any single day to purchase or acquire products containing ephedrine where the total count exceeds 100.

Sec. 32.1304. SEPARATE VIOLATION FOR EACH INCIDENT. Each incident in violation of section 32.1303 shall constitute a separate offense.

Sec. 32.1305. ENFORCEMENT AUTHORITY. The District Attorney and the Sheriff are authorized to administer and enforce the provisions of this chapter. The District Attorney and the Sheriff may exercise any enforcement powers provided by law.

Sec. 32.1306. ENFORCEMENT REMEDIES. (a)Any person violating any provision of this chapter shall be deemed guilty of a misdemeanor and upon conviction shall be fined in an amount not to exceed five hundred dollars (\$500) or by imprisonment for a period of not

more than six months in County Jail or by both such fine and imprisonment.

(b)Any person who commits, or proposes to commit, an act in violation of this chapter may be enjoined therefrom by a court of competent jurisdiction. Such injunctive relief may be sought by the District Attorney or the County Counsel.

Sec. 32.1307. STRICT LIABILITY OFFENSES. Violations of this chapter shall be treated as strict liability offenses, regardless of intent.

PASSED, APPROVED AND ADOPTED this 15th day of September, 1998.