

ORDINANCE NO. 593

AN ORDINANCE DEALING GENERALLY WITH THE SALE OF METHAMPHETAMINE PRECURSOR DRUGS; REGULATING GENERALLY THE SALE OF EPHEDRINE, PSUEDOEPHEDRINE, AND EPHEDRINE OR PSUEDOEPHEDRINE CONTAINING PRODUCTS WITHIN THE CITY OF ARMA, KANSAS AND ESTABLISHING A PENALTY FOR VIOLATING THE SAME.

WHEREAS, the State of Kansas, and specifically, Crawford County, have become known to drug enforcement officials for the high incidence of the illicit manufacture, sale and use of the illegal drug known as methamphetamine; and,

WHEREAS, ephedrine or pseudoephedrine are necessary for the manufacture of methamphetamine; and,

WHEREAS, the City Council of the City of Arma finds that illicit methamphetamine labs are known to be toxic, flammable and explosive and create an imminent danger for police and fire personnel as well as residents, neighbors, and the public generally; and,

WHEREAS, the City Council of the City of Arma finds that the restrictions hereinafter adopted will provide additional support to law enforcement efforts to reduce the current methamphetamine epidemic and that such restrictions will not unduly burden businesses selling, and customers purchasing, such products; and,

WHEREAS, the City Council of the City of Arma finds it is in the best interests of the citizens of the City of Arma to regulate the sale of ephedrine, pseudoephedrine and pseudoephedrine containing products.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARMA, KANSAS, AS FOLLOWS:

Section 1. Findings.

The City Council of the City of Arma has found the manufacture, transportation, possession and sale of methamphetamine to be inherently dangerous and that the chemical precursors of methamphetamine and the byproducts and wastes of methamphetamine production are inherently dangerous and injurious to the public health, safety and welfare of the citizens of the city. Regulation of the sale of the chemical precursors to methamphetamine production, such as ephedrine products and pseudoephedrine products, is necessary to protect the citizens of the city.

Section 2. Definitions.

For the purposes of this Ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

(a) Ephedrine. All forms of ephedrine, ephedrine hydrochloride and all combinations of these chemicals and any methamphetamine precursor drug containing these chemicals.

(b) Pseudoephedrine. All forms of pseudoephedrine, pseudoephedrine hydrochloride and all combinations of these chemicals and any methamphetamine precursor drug containing these chemicals.

(c) Methamphetamine precursor drug. Any drug or substance used to manufacture methamphetamine that contains pseudoephedrine or ephedrine.

(d) Person. Any individual, corporation, partnership, trust, limited liability company, firm, association or other entity.

(e) Sell. To knowingly furnish, give away, exchange, transfer, deliver, surrender, or supply, whether for monetary gain or not.

(f) Package. Any number of pills, tablets, capsules, caplets or individual units of a substance held within a container intended for sale.

Section 3. Prohibition of sale of methamphetamine precursor drugs.

It shall be illegal for any person to sell, deliver or distribute ephedrine, pseudoephedrine, and pseudoephedrine or ephedrine containing products, their sales, their optical isomers or salts of their optical isomers except as set forth in the specific exceptions contained in Section 4 of this ordinance.

Section 4. Exceptions.

(a) Ephedrine, pseudoephedrine and pseudoephedrine or ephedrine containing products, their sales, their optical isomers or salts of their optical isomers may be sold by a Kansas licensed pharmacist after being authorized to do so by a written prescription from a physician or other healthcare professional licensed by the State of Kansas or any other state to write prescriptions.

(b) Ephedrine, pseudoephedrine and pseudoephedrine or ephedrine containing products, their salts, their optical isomers or sales of their optical isomers may be distributed by a licensed physician within the physician's office, or any clinic, nursing home or other licensed healthcare facility upon the orders of a physician or other healthcare professional licensed by the State of Kansas or any other state to write prescriptions.

(c) This Section regulating ephedrine, pseudoephedrine or other methamphetamine precursor drugs shall not apply to the sale of animal feed containing ephedrine or dietary supplement products containing naturally occurring or herbal ephedra or extracts of herbal ephedra.

Section 5. Prima facie evidence.

It shall be prima facie proof that a substance is regulated by this Section if the substance is contained in its original packaging and is labeled as being or containing ephedrine or pseudoephedrine.

Section 6. Reporting theft of methamphetamine precursor drugs.

(a) All thefts, shortages, disappearances, miscounts or other losses of ephedrine, pseudoephedrine or other methamphetamine precursor drugs shall be reported to the police department of the City of Arma within twenty four (24) hours of discovery.

(b) Any person selling ephedrine, pseudoephedrine or other methamphetamine precursor drugs shall report any difference between the quantity of the aforementioned drugs shipped and the quantity received to the police department of the City of Arma within twenty-four (24) hours of discovery.

Section 7. Penalty.

Every act or omission constituting a violation of any of the provisions of this ordinance by any agent or employee of any person shall be deemed and held to be an act of such person, and said person shall be punishable in the same manner as if said act or omission had been done or omitted by him/her or it personally, provided such an act or omission was within the scope of employment or the scope of authority of such agent or employee. Each such violation of this ordinance shall be considered a separate offense. Violation of this ordinance shall be considered and punished as a class A misdemeanor.

Section 8. Severability.

In the event that any section, sentence clause, phrase or portion of this Ordinance is held to be invalid by a court of competent jurisdiction, the remainder shall continue in full force and effect, to the extent the remainder can be given effect without the valid portion.

Section 9. Effective Date.

This Ordinance shall be in full force and effect on and after December 1, 2013, and publication in the official City newspaper.

PASSED BY THE CITY COUNCIL OF THE CITY OF ARMA, KANSAS, this
4th day of November, 2013.

Buddy Bualle
Buddy Bualle, Mayor

ATTEST:

Bette Lessen
Bette Lessen, City Clerk