

(O-87-136)

ORDINANCE NUMBER O- 16787 (NEW SERIES)

ADOPTED ON JAN 12 1987

AN ORDINANCE AMENDING CHAPTER III, ARTICLE 3, OF THE SAN DIEGO MUNICIPAL CODE BY ADDING SECTIONS 33.3801, 33.3802, 33.3803, 33.3804, 33.3805, 33.3806, 33.3807, 33.3808, 33.3809, 33.3810, 33.3811, 33.3812, 33.3813 AND 33.3814 REGULATING THE SALE OF CERTAIN CHEMICAL SUBSTANCES IN THE CITY OF SAN DIEGO.

WHEREAS, the law enforcement agencies in the County of San Diego seized seven methamphetamine laboratories in the year 1984, fifty-five methamphetamine laboratories in the year 1985 and one hundred methamphetamine laboratories in the year 1986; and

WHEREAS, the amount of methamphetamine seized by law enforcement agencies in the County of San Diego rose from 15,000 grams in 1984 to 110,000 grams in the first six months of 1986; and

WHEREAS, there has been a 53% increase in the number of first time treatment admissions of methamphetamine users to drug treatment centers in the County of San Diego between 1984 and 1985; and

WHEREAS, the illegal production of controlled substances constitutes a direct threat to the health and safety of the public due to the flammable, explosive, corrosive and toxic nature of the chemicals used, the combustible nature of which has resulted in eight (8) methamphetamine laboratory fires in the County of San Diego; and

WHEREAS, during the last legislature session, the Governor signed Assembly Bill Number 3977 which is designed to assist local law enforcement attack this problem by regulating the sale, furnishing or transferring of ephedrine, pseudoephedrine, norpseudoephedrine, and phenylpropanolamine, chemicals which are used in the illegal manufacture of methamphetamine; and

WHEREAS, the statewide regulation of said chemical precursors to methamphetamine shall not become operative until October 1, 1987, and

WHEREAS, the situation herein described constitutes an emergency and the City Council finds that it is necessary for the immediate preservation of the public peace, property, health and safety to regulate the sale, furnishing or transferring of certain chemical substances in The City of San Diego; NOW, THEREFORE,

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Chapter III, Article 3, of the San Diego Municipal Code be and the same is hereby amended by adding Sections 33.3801 through 33.3813 to read as follows:

**SEC. 33.3801 CITATION OF ORDINANCE**

This division may be cited as the Sales of Chemical Substance Regulatory Ordinance.

**SEC. 33.3802 PURPOSE AND INTENT**

It is the purpose and intent of this division to provide for the orderly regulation of the sales of certain chemical substances which are precursors of the illegal drug methamphetamine, by establishing requirements for the reporting of sales to protect the health, safety and welfare of the residents of The City of San Diego.

**SEC. 33.3803 CHEMICAL SALES - POLICE REGULATED**

The business of the sales of certain chemicals is hereby designated "Police Regulated." These chemicals are:

Ephedrine

Pseudoephedrine

Norpseudoephedrine

Phenylpropanolamine

Ether

**SEC. 33.3804 DEFINITIONS**

Whenever used in this division the following words and phrases shall mean: (a) "Proper identification" shall mean a motor vehicle operator's license or other official state-issued identification of the purchaser which 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 any motor vehicle owned or operated by the purchaser, a letter of authorization from the business for which any substance specified in section 33.3803 is being furnished, which includes the business license number and address of the

business, a full description how the substance is to be used, and the signature of the purchaser.

**SEC. 33.3805 PERMIT REQUIREMENT**

A. Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any substance specified in section 33.3803 to a person in The City of San Diego, or who receives from a source outside of The City of San Diego any substance specified in section 33.3803 shall obtain a permit for the conduct of that business from the Police Department of The City of San Diego.

B. Applications for permits shall be filed in writing and signed by the applicant, and shall set forth the name of the applicant, his/her date of birth, social security number, drivers license number and any other information deemed necessary by the Chief of Police, the business in which the applicant is engaged, the business address of the applicant, and a full description of any substance and the quantity of substance sold, transferred, or otherwise furnished, or received.

**SEC. 33.3806 APPLICATION INVESTIGATION**

Upon receipt of an application for a permit, the Chief of Police shall make an investigation of the applicant. The Chief of Police may send copies of such application to any office or department which the Chief of Police deems essential in order to conduct a proper investigation of the applicant.

The Chief of Police and every officer and/or city department to which an application is referred shall investigate the truth of the matters set forth in the application, the character of the applicant, and may examine the premises to be used for the sales of such chemicals.

The Chief of Police shall issue the permit unless he finds that the applicant has knowingly made any false, misleading or fraudulent statement of a material fact in the application for the license or in any record or report required to be filed under this division, or that the applicant or any agent or representative thereof or, if a corporation, any of its officers, directors or holders of 5% or more of the corporate stock has been convicted in a court of competent jurisdiction of a violation of any section of the California Health and Safety Code relating to narcotics within the past five years.

**SEC. 33.3807 TERMS OF PERMIT AND FEES**

A permit for the sales of chemical substances shall expire one year from the date of issue unless there is a change of ownership of the organization at which time the new owner must re-apply for a permit. The permit may be renewed for a maximum period of one year any time within six (6) months from its date of expiration, upon application therefor.

The fee shall be one hundred dollars (\$100.00). The renewal fee shall be \$25.00 unless there is a change of ownership at which time a fee of one hundred dollars

(\$100.00) will be required. The appropriate fee shall accompany the submission of each application or renewal. The fees shall be used to defray the cost of issuing the permit. If an application is denied the application fee shall not be refunded.

**SEC. 33.3808 PERMIT NOT TRANSFERABLE**

Each permit issued hereunder shall be issued to a specific person or organization at a specific location and in no event be transferable from one person to another or from one organization to another, or from one location to another.

**SEC. 33.3809 CHEMICAL SALES REQUIREMENT**

Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any of the substances identified in section 33.3803 to any person shall:

(a) Prior to selling, transferring, or otherwise furnishing any substance specified in section 33.3803 require proper identification from the purchaser;

(b) Affix his or her signature as a witness to the signature and identification of the purchaser;

(c) Not less than 21 days prior to delivery of the substance, submit a report of the transaction, which includes the information specified in subsection (d), to the Chief of Police. However, the Police Department of The City of San Diego may authorize the submission of the reports on a monthly basis with respect to repeated, regular transaction between the furnisher and the recipient involving the same substance if the Police Department determines that either of the following exists:

- (1) a pattern of regular supply of the substance exists between the manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes such substance and the recipient of the substance, or
- (2) the recipient has established a record of utilization of the substance for lawful purposes.

(d) Shall report to the Chief of Police on a form provided by the Police Department the following:

- (1) name of the substance,
- (2) quantity of the substance,
- (3) the date the substance was sold, transferred or furnished,
- (4) the name and address of the manufacturer wholesaler, retailer, or other person selling, transferring or furnishing such substance, and
- (5) the name and address of the person buying or receiving such substance.

(e) Maintain a complete and accurate record of all chemical specified in section 33.3803 on hand. A current inventory shall be kept and preserved for at least one year from the date of making such inventory. The Chief of Police or his designee shall have the right to inspect such records at the business office of the licensee at any time during business hours; and

(f) The theft or loss of any substance specified in section 33.3803 discovered by any permittee shall be reported to the San Diego Police Department Narcotic Division, within three (3) days after such discovery.

**SEC. 33.3810 EXEMPTIONS**

This section shall not apply to any of the following:

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

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

(c) Any manufacturer or wholesaler licensed by the California State Board of Pharmacy who sells, transfers, or otherwise furnishes a substance to a licensed pharmacy, physician, dentists, podiatrist, or veterinarian.

**SEC. 33.3811 SUSPENSION OR REVOCATION OF PERMIT**

The Chief of Police may suspend or revoke a permit identified in this division if he finds that the permittee, an employee, agent or representative thereof, or if a corporation, any of its officers, directors, holders of five percent (5%) or more of the corporate stock has been convicted in a court of competent jurisdiction of any offense under this division or the California Health and Safety Code relating to narcotics within the past five (5) years.

**SEC. 33.3812 PENALTIES**

Any person violating any of the provisions of this division or failing to comply with any of the requirements of this division shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment in



the County jail for a period of not more than six (6) months or by both such fine and imprisonment.

**SEC. 33.3813 SEVERABILITY**

If any provision, clause, sentence or paragraph of this division or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions or applications of the invalid provisions or application, and to this end the provisions of this division are hereby declared to be severable.

**SEC. 33.3814 DATE REPEALED**

This section shall be operative until october 1, 1987, and on that date is repealed.

Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: John W. Witt, City Attorney

By

*for*

  
Nina B. Deane

Deputy City Attorney

NBD:ls:041  
12/11/86  
Or.Dept:Police  
O-87-136  
Form=o.none

Passed and adopted by the Council of The City of San Diego on JAN 12 1987,  
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Cleator	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
William Jones	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struiksma	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mike Gotch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Celia Ballesteros	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Maureen O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

MAUREEN O'CONNOR  
Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, California.

(Seal)

By June G. Blackwell, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

**DEC 15 1986**

**JAN 12 1987**

, and on \_\_\_\_\_.

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, California.

(Seal)

By June G. Blackwell, Deputy.

Office of the City Clerk, San Diego, California	
Ordinance Number <u>0-16787</u>	Adopted <u>JAN 12 1987</u>

CERTIFICATE OF PUBLICATION

CITY OF SAN DIEGO  
202 C STREET 12TH FLOOR  
SAN DIEGO, CA 92101

IN THE MATTER OF

NO.

REGULATING THE SALE OF CERTAIN CHEMICAL  
SUBSTANCES IN THE CITY OF SAN DIEGO

**ORDINANCE NUMBER 0-16787 (NEW SERIES)**

**AN ORDINANCE AMENDING CHAPTER III, ARTICLE 3, OF THE SAN DIEGO MUNICIPAL CODE BY ADDING SECTIONS 33.3801, 33.3802, 33.3803, 33.3804, 33.3805, 33.3806, 33.3808, 33.3809, 33.3810, 33.3811, 33.3812, 33.3813 AND 33.3814 REGULATING THE SALE OF CERTAIN CHEMICAL SUBSTANCES IN THE CITY OF SAN DIEGO.**

This ordinance amends Chapter III, Article 3, to provide for regulating the sale, furnishing or transferring of ephedrine, pseudoephedrine, ether, norpseudoephedrine, and phenylpropranolamine, chemicals which are used in the manufacture of methamphetamine.

A complete copy of the ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 12th floor, City Administration Building, 202 "C" Street, San Diego, CA 92101.

Introduced on DEC 15 1986

Passed and adopted by the Council of The City of San Diego on

JAN 12 1987

AUTHENTICATED BY:

MAUREEN O'CONNOR  
Mayor of The City of San Diego, California

CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, California

By JUNE A. BLACKNELL, Deputy

Pub. January 26

67824

I, THOMAS D. KELLEHER, am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the San Diego Daily Transcript, a newspaper of general circulation, printed and published daily, except Saturdays and Sundays, in the City of San Diego, County of San Diego, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

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(NEW SERIES)

is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following date(s), to wit:

JANUARY 26, 1987

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 26 day of JAN, 19 87.



(Signature)

4 3/4" x \$10.24 = \$48.64