

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County  City  Town  Village  
(Select one:)

of STEUBEN

Local Law No. FIVE of the year 2014

A local law Prohibiting within Steuben County the possession, purchase, attempted purchase in excess  
(Insert Title)  
of the Federal limits, of pseudoephedrine and products containing pseudoephedrine.

Be it enacted by the LEGISLATURE of the  
(Name of Legislative Body)

County  City  Town  Village  
(Select one:)

of STEUBEN as follows:

## SECTION 1:

WHEREAS, this Legislature hereby finds and determines that the County of Steuben [hereinafter County] has a duty to preserve peace and order and secure freedom from dangerous or noxious activities, and to that end, the Legislature of Steuben County has determined that certain enterprises and individuals within Steuben County, New York, are contemplating or engaged in the purchase, attempted purchase, and/or possession of pseudoephedrine and other products containing pseudoephedrine (PSE) in quantities which exceed the established federal limits; and

WHEREAS, the possession and purchase of excessive quantities of PSE is leading to the manufacture, sale, use and possession of methamphetamine, a controlled substance under New York State Public Health Law §3306, Schedule II (d)(2); and

WHEREAS, the substances, which are more specifically described below, are often used as an essential ingredient to manufacture methamphetamine, and further, the purchase and possession of excessive quantities of PSE by individuals leads to the unlawful sharing, sale and/or other illegal or unintended use of PSE to manufacture methamphetamine; and

WHEREAS, it has been determined that the said effects of these purchases, attempted purchases and/or possession pose an actual and imminent threat to the safety of the citizens of Steuben County, New York.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

**NOW THEREFORE, BE IT**

**ORDERED BY THE LEGISLATURE OF STEUBEN COUNTY, NEW YORK, AS FOLLOWS:**

**SECTION 2:** It is hereby declared to be unlawful for any person to possess, purchase and/or attempt to purchase any one or more of the following substances in the quantities enumerated below within the boundaries of Steuben County, New York:

The factors outlined in *USA Patriot Act, Title VII, Combat Methamphetamine Epidemic Act of 2005* is incorporated into this Local Law to limit the purchase, attempted purchase and/or possession of PSE as follows:

1. Daily Sales Limit on Retailers: Retail sales may not exceed 3.6 grams PSE per day per purchaser, regardless of the number of transactions.
2. 30-Day Purchase Limits on Consumers: Individuals are prohibited from purchasing more than 9 grams PSE per 30-day period.
3. Non-Liquid Forms: All non-liquid forms (including gelcaps) of PSE products must be sold in blister packs with not more than two dosages or in unit-dose packets or pouches.
4. Mail Order Limits: Mail-order companies may not sell more than 7.5 grams to a customer within a 30-day period.
5. Behind-the-Counter Placement: All PSE products must be placed behind a counter (any counter, not necessarily the pharmacy counter) that is not accessible to purchasing consumers or in a locked display case that is located on the selling floor. Retailers must give the product directly to the purchaser; therefore, a retailer without a pharmacy may still sell the combination PSE products from behind a counter or locked display case.
6. Logbook: Retailers must maintain a logbook of information on transactions involving PSE products. The logbook must be available for inspection and copying by a law enforcement officer upon request to the retailer. The logbook may be maintained in either written or electronic form. The logbooks must capture the following information:
  - a. Purchaser's signature;
  - b. Purchaser's name and address, legibly entered or written;
  - c. Date and time of sale;
  - d. Name of product sold; and
  - e. Quantity sold.Logbooks must provide notice to purchasers that entering false statements or misrepresentations in the logbook may subject purchasers to criminal penalties federally under 18 United States Code §1001 and locally under this local law. The purchaser must sign the logbook and enter the name, address, and date and time of sale. The retailer must check the information entered by the purchaser against the photo ID and enter the name and quantity of product sold. Logbook requirements do not apply to purchases of single sales packages that contain no more than 60 mg of PSE. Each entry must be maintained for two (2) years following the date of entry and the format may be written or electronic.
7. Photo ID: In conjunction with the logbook requirement, retailers will be required to ask for photo identification (ID) issued by either a state or the federal government or other appropriate ID.
8. Training and Certification: Retailers must train applicable sales personnel to ensure that they understand the requirements of PSE product sales and submit self-certifications to the attorney general in this regard. The Drug Enforcement Administration will issue regulations on the training criteria.

**SECTION 3:** This law shall be enforced by any certified law enforcement officer within his/her respective jurisdiction within the geographical boundaries of Steuben County. Further, this law shall apply and be enforced in all unincorporated areas, or other municipal entities within the geographical boundaries of Steuben County. If any of the aforementioned substances, *pseudoephedrine, its compounds, salts or isomers, or products containing ephedrine, pseudoephedrine, or phenylpropanolamine*, in excess of these quantities enumerated above, are found to be purchased, attempted to be purchased and/or in the possession of any person, (a) such substances may be confiscated and destroyed by law enforcement officials, or (b) such substances may be maintained as evidence, or (c) the person purchasing, attempting to purchase or possessing such substances in excess of such quantities may be charged with a class "A" misdemeanor.

**SECTION 4:** Possession is defined pursuant to the New York State Penal Law §10.00 (8) "to have physical possession or otherwise to exercise dominion or control over tangible property." The term "possess" includes actual or constructive possession of tangible property. (See *People v Manini*, 79 NY2d 561, 573) For the purposes of this Local Law, it shall be unlawful for any person to purchase, attempt to purchase and/or possess more than the quantities as set forth in Section 2, above, and as set forth in *USA Patriot Act, Title VII, Combat Methamphetamine Epidemic Act of 2005* and are subject to charges as stated in Section 3 of this Local Law.

**SECTION 5:** It is not an offense under Section 2 above of this law if the person was acting at the direction of an authorized law enforcement agent to enforce or ensure compliance with this law prohibiting the sale of the aforementioned substance.

**SECTION 6 - JURISDICTION:** It should be noted that under New York State Criminal Procedure Law section 20.40 (4)(c) and (g), an offense committed within five hundred (500) yards of the boundary of a particular county, and in an adjoining county of this state, may be prosecuted in either such county; or an offense committed in a private vehicle during a trip thereof extending through more than one county may be prosecuted in any county through which such vehicle passed in the course of such trip.

**SECTION 7:** Any person found to be in violation of this law will be guilty of a Class A Misdemeanor and subject to a term of imprisonment not to exceed one year and a fine not to exceed \$1000.00.

**SECTION 8:** This law shall apply to all actions occurring on or after the effective date of this article. This law may be enforced by any law enforcement agency having jurisdiction to act in the County of Steuben, by either the arrest of or the issuance of a summons to a party violating the provisions of this act and requiring their appearance before a court of competent jurisdiction.

**SECTION 9:** This law shall be null and void on the day that statewide legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this law, or in the event that a pertinent state or federal administrative agency issues and promulgates regulations preempting such action by the County of Steuben. The County Legislature may determine by resolution whether or not identical or substantially similar statewide legislation or pertinent preempting state or federal regulations have been enacted for the purposes of triggering the provisions of this section. In no event shall the recited actions of this section prevent the continued prosecution of matters pending judicial determination at the time of such action(s) take place.

**SECTION 10 - SEVERABILITY:** If any provision of this law is held invalid, such invalidity shall not affect the remaining provisions of the law which shall remain effective absent the invalid provision, and to this end, the provisions of the law are declared to be severable.

**SECTION 11 – EMERGENCY CLAUSE:** It is hereby declared that an emergency exists and this law, being necessary for the preservation of the health, safety and welfare of citizens of Steuben County, New York, shall be effective immediately upon its passage and approval and filing with the New York State Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. Five of 2014 of the (County)(City)(Town)(Village) of STEUBEN was duly passed by the LEGISLATURE on 11/24 2014, in accordance with the applicable provisions of law.

~~**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.~~

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_.

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

~~**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.~~

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

~~5. (City local law concerning Charter revision proposed by petition.)~~

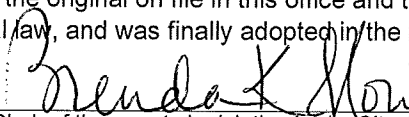
~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_, 20\_\_\_\_, became operative.~~

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

  
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 12/24/14

(Seal)