

SENATE BILL 944

E1, J2

(4lr0656)

ENROLLED BILL

— Finance and Judicial Proceedings/Health and Government Operations —

Introduced by **Senator Kelly**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Nonprescription Drugs and Devices – Provision by Registered Nurses and Sale**
3 **of Contraceptives Through Automatic Devices**

4 FOR the purpose of ~~repealing the prohibition on the sale of certain contraceptives by means~~
5 ~~of a vending machine or other automatic device~~ ~~repealing a prohibition against the~~
6 ~~sale of nonlatex condoms through a vending machine or other automatic device;~~
7 ~~prohibiting the sale of natural membrane condoms through a vending machine or~~
8 ~~other automatic device~~ *prohibiting the sale of natural membrane condoms, rather*
9 *than all nonlatex condoms, through a vending machine or other automatic device;*
10 *excluding the violation of a certain provision of this Act from certain penalties;*
11 authorizing registered nurses to provide, without a prescription, nonprescription
12 drugs and devices in a local health department under certain circumstances; and
13 generally relating to nonprescription drugs and devices.

14 BY repealing

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 Article – Criminal Law
 2 Section 10–104 ~~and 10–105~~
 3 Annotated Code of Maryland
 4 (2021 Replacement Volume and 2023 Supplement)

5 BY repealing and reenacting, without amendments,
 6 Article – Health – General
 7 Section 3–403(a)(1)
 8 Annotated Code of Maryland
 9 (2023 Replacement Volume)

10 BY repealing and reenacting, with amendments,
 11 Article – Health – General
 12 Section 3–403(b) *and 21–1215*
 13 Annotated Code of Maryland
 14 (2023 Replacement Volume)

15 BY adding to
 16 Article – Health – General
 17 Section 21–228
 18 Annotated Code of Maryland
 19 (2023 Replacement Volume)

20 BY repealing and reenacting, with amendments,
 21 Article – Health Occupations
 22 Section 8–512
 23 Annotated Code of Maryland
 24 (2021 Replacement Volume and 2023 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 26 That the Laws of Maryland read as follows:

27 **Article – Criminal Law**

28 [10–104.

29 (a) A person may not sell or offer for sale a nonlatex condom by means of a vending
 30 machine or other automatic device.

31 (b) (1) A person who violates this section is guilty of a misdemeanor and on
 32 conviction is subject to a fine not exceeding \$1,000 for each violation.

33 (2) Each vending machine or other automatic device in violation of this
 34 section is a separate violation.]

35 ~~[10–105.~~

1 ~~(a) A person may not sell or offer for sale a contraceptive or a contraceptive device,~~
2 ~~whether or not advertised as a prophylactic, by means of a vending machine or other~~
3 ~~automatic device at a kindergarten, nursery school, or elementary or secondary school.~~

4 ~~(b) (1) A person who violates this section is guilty of a misdemeanor and on~~
5 ~~conviction is subject to a fine not exceeding \$1,000 for each violation.~~

6 ~~(2) Each vending machine or other automatic device in a school is a~~
7 ~~separate violation.]~~

8 **Article – Health – General**

9 3–403.

10 (a) (1) There is a Committee on Registered Nurses Personally Preparing and
11 Dispensing Drugs and Devices in Local Health Departments.

12 (b) The Committee shall:

13 (1) Develop and approve a formulary for use by registered nurses **THAT**
14 **INCLUDES ALL NONPRESCRIPTION CONTRACEPTIVE DRUGS AND DEVICES**
15 **APPROVED BY THE U.S. FOOD AND DRUG ADMINISTRATION FOR**
16 **OVER-THE-COUNTER USE;** and

17 (2) Annually review the formulary to ensure compliance with current
18 prescribing standards.

19 **21–228.**

20 **A PERSON MAY NOT SELL OR OFFER FOR SALE A NATURAL MEMBRANE**
21 **CONDOM BY MEANS OF A VENDING MACHINE OR OTHER AUTOMATIC DEVICE.**

22 **21–1215.**

23 (a) This section does not apply to a violation of § 21–220(b)(4), § 21–228, or §
24 21–259.2 of this title.

25 (b) A person who violates any provision of Subtitle 2 of this title or any regulation
26 adopted under Subtitle 2 of this title is guilty of a misdemeanor and on conviction is subject
27 to:

28 (1) A fine not exceeding \$10,000 or imprisonment not exceeding 1 year or
29 both; or

1 (2) *If the person has been convicted once of violating Subtitle 2 of this title,*
2 *a fine not exceeding \$25,000 or imprisonment not exceeding 3 years or both.*

3 (c) *In addition to any criminal penalties imposed under this section, a person who*
4 *violates any provision of Subtitle 2 of this title, any rule or regulation adopted under Subtitle*
5 *2 of this title, or any term, condition, or limitation of any license or registration issued under*
6 *Subtitle 2 of this title:*

7 (1) *Is subject to a civil penalty not exceeding \$5,000, in an action in any*
8 *District Court; and*

9 (2) *May be enjoined from continuing the violation.*

10 (d) *Each day on which a violation occurs is a separate violation under this section.*

11 Article – Health Occupations

12 8–512.

13 (a) (1) In this section the following words have the meanings indicated.

14 (2) “Authorized prescriber” means a licensed registered nurse, licensed
15 dentist, licensed physician, licensed physician’s assistant, licensed podiatrist, or other
16 individual authorized by law to prescribe prescription or nonprescription drugs or devices.

17 (3) (i) “Device” means an item used in the diagnosis, treatment, or
18 prevention of disease.

19 (ii) “Device” does not include:

20 1. Surgical or dental instruments;

21 2. Physical therapy equipment;

22 3. X–ray apparatuses; or

23 4. Component parts of or accessories for any of the items
24 described in items 1 through 3 of this subparagraph.

25 (4) (i) “Dispense” means a procedure that results in the receipt of a
26 drug or device by a patient or a patient’s agent.

27 (ii) “Dispense” includes:

28 1. Interpreting an authorized prescriber’s prescription for a
29 drug or device;

1 2. Selecting and labeling the drug or device prescribed;

2 3. Measuring and packaging the drug or device in accordance
3 with State and federal law; and

4 4. Documenting the transaction in the patient's medical
5 record.

6 (5) "Drug" means, unless the context requires otherwise, a prescription or
7 nonprescription drug.

8 (6) "Formulary" means a list of drugs and devices.

9 (7) "Nonprescription drug **OR DEVICE**" means a drug **OR DEVICE** that:

10 (i) May be sold without a prescription; and

11 (ii) Is labeled for use by a consumer in accordance with State and
12 federal law.

13 (8) "Personally prepare and dispense" means to:

14 (i) Physically prepare a prescription;

15 (ii) Perform a final check of the prescription before dispensing it to a
16 patient; and

17 (iii) Not delegate any step of the dispensing process.

18 (9) "Prescription drug" means a drug that, under § 21–220 of the Health –
19 General Article, may be dispensed only on the prescription of an authorized prescriber.

20 (b) If a registered nurse complies with the requirements of this section, the
21 registered nurse may personally prepare and dispense drugs and devices **OR PROVIDE,**
22 **WITHOUT A PRESCRIPTION, NONPRESCRIPTION DRUGS AND DEVICES** in a local health
23 department:

24 (1) In accordance with the Overdose Response Program under Title 13,
25 Subtitle 31 of the Health – General Article or the Expedited Partner Therapy Pilot Program
26 under § 18–214.1 of the Health – General Article; or

27 (2) To patients in need of communicable disease, alcohol and drug abuse,
28 family planning, or reproductive health services.

1 (c) A registered nurse may personally prepare and dispense drugs and devices
2 **OR PROVIDE, WITHOUT A PRESCRIPTION, NONPRESCRIPTION DRUGS AND DEVICES**
3 if the registered nurse:

4 (1) Complies with the formulary developed and approved under § 3–403(b)
5 of the Health – General Article;

6 (2) Has successfully completed a training program administered by the
7 Department in accordance with § 3–405 of the Health – General Article;

8 (3) Maintains the patient’s health record in a manner that ensures the
9 confidentiality of the patient’s drug and device medication record in accordance with State
10 and federal laws;

11 (4) Complies with drug and device storage and inventory procedures in
12 accordance with Department policy; and

13 (5) **[Has] FOR A PRESCRIPTION DRUG OR DEVICE, HAS** received a
14 prescription from an authorized prescriber employed at a local health department.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2024.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.