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(PRE-FILED)

HB 346/96 - JUD

By: Delegate Bonsack

Requested: November 4, 1996

Introduced and read first time: January 8, 1997

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 7, 1997

CHAPTER ____

1 AN ACT concerning

2 **~~Prescription~~ Drugs - Evidence of Forgery**

3 FOR the purpose of authorizing the introduction ~~into as~~ evidence ~~as proof~~ of a certain
4 forgery or alteration of a prescription for ~~a prescription drug~~ certain drugs under
5 certain circumstances a certain statement made by a practitioner licensed to
6 ~~administer a prescription drug~~ prescribe certain drugs; requiring the State to
7 provide written notice to the defendant within a certain period of time that the
8 State intends to rely on certain evidence and introduce certain evidence at a certain
9 proceeding; requiring the State to require the presence of a certain witness on
10 written demand of the defendant within a certain period of time; defining a certain
11 term; and generally relating to the introduction of evidence of forgeries of
12 prescriptions.

13 ~~BY repealing and reenacting, without amendments,~~

14 ~~Article 27 - Crimes and Punishments~~

15 ~~Section 300(a), (g-1), and (h)~~

16 ~~Annotated Code of Maryland~~

17 ~~(1996 Replacement Volume)~~

18 BY adding to

19 Article 27 - Crimes and Punishments

20 Section ~~300(g-2)~~ 305

21 Annotated Code of Maryland

22 (1996 Replacement Volume)

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

2

1 **Article 27 - Crimes and Punishments**

2 ~~300.~~

3 (a) ~~"Prescription drugs" shall mean and include any drug intended for use by man~~
4 ~~which, because of its toxicity or other potentiality for harmful effect, or the method of its~~
5 ~~use, or the collateral measures necessary for its use, bears a cautionary label warning~~
6 ~~against dispensing without a prescription under federal law or is designated by the~~
7 ~~Department as not safe for use except under the supervision of a practitioner licensed by~~
8 ~~law to administer such drugs. Provided that this term shall not mean any controlled~~
9 ~~dangerous substance as defined in this subheading.~~

10 (g-1) ~~Except as authorized by this subheading it is unlawful for any person to:~~

11 (1) ~~Manufacture, distribute, or possess with intent to distribute a~~
12 ~~prescription drug.~~

13 (2) ~~Obtain or attempt to obtain a prescription drug by (i) fraud, deceit,~~
14 ~~misrepresentation, or subterfuge, (ii) the forgery or alteration of a prescription or a~~
15 ~~written order, (iii) the concealment of any material fact or the use of false name or~~
16 ~~address, (iv) falsely assuming the title of or representing himself to be a manufacturer,~~
17 ~~distributor or practitioner, or (v) making or uttering any false or forged prescription or~~
18 ~~written order.~~

19 (3) ~~Affix any false or forged label to a package, container, or other~~
20 ~~receptacle containing any prescription drug, or to omit, remove, alter, or obliterate any~~
21 ~~label or symbol on a prescription drug as required by federal, State, or local law.~~

22 (G-2) ~~305.~~

23 (A) IN THIS SECTION, "PRESCRIPTION DRUG" HAS THE MEANING STATED IN §
24 300 OF THIS SUBHEADING.

25 (B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, IN A CRIMINAL CASE
26 INVOLVING FORGERY OF A PRESCRIPTION UNDER THIS SUBHEADING, EVIDENCE IN
27 THE FORM OF AN AFFIDAVIT BY A PRACTITIONER GIVEN UNDER OATH SUBJECT TO
28 THE PENALTY OF PERJURY THAT IS ATTACHED TO A COPY OF A PRESCRIPTION AND
29 DECLARES THE FORGERY OR ALTERATION OF THE PRESCRIPTION AND DESCRIBES
30 IN DETAIL THOSE PARTS OF THE PRESCRIPTION THAT HAVE BEEN FORGED AND
31 WHETHER THERE IS A PATIENT RELATIONSHIP BETWEEN THE INDIVIDUAL NAMED
32 ON THE PRESCRIPTION AND THE PRACTITIONER MAY BE INTRODUCED AS ~~PROOF~~
33 EVIDENCE THAT:

34 (1) THE SIGNATURE ON A PRESCRIPTION OF A PRACTITIONER WHO IS
35 LICENSED BY LAW TO ~~ADMINISTER~~ PRESCRIBE A PRESCRIPTION DRUG OR
36 CONTROLLED DANGEROUS SUBSTANCE HAS BEEN FORGED;

37 (2) THE INDIVIDUAL NAMED ON THE PRESCRIPTION WAS NOT A
38 PATIENT OF THE PRACTITIONER; OR

39 (3) THE INDIVIDUAL NAMED ON THE PRESCRIPTION DID NOT HAVE A
40 PRESCRIPTION FROM THE PRACTITIONER FOR THE NAMED PRESCRIPTION DRUG OR
41 CONTROLLED DANGEROUS SUBSTANCE OR DID NOT HAVE A PRESCRIPTION FOR

3

1 THAT QUANTITY OF THE PRESCRIPTION DRUG OR CONTROLLED DANGEROUS
2 SUBSTANCE.

3 (C) (1) IN A PROCEEDING IN WHICH THE STATE INTENDS TO INTRODUCE
4 INTO EVIDENCE AN AFFIDAVIT AS PROVIDED UNDER SUBSECTION (B) OF THIS
5 SECTION, THE STATE SHALL PROVIDE AT LEAST 10 DAYS' WRITTEN NOTICE TO THE
6 DEFENDANT THAT THE STATE INTENDS TO:

7 (I) RELY ON THE AFFIDAVIT; AND

8 (II) INTRODUCE THE AFFIDAVIT INTO EVIDENCE AT THE
9 PROCEEDING.

10 (2) ON WRITTEN DEMAND OF A DEFENDANT FILED AT LEAST 5 DAYS
11 PRIOR TO THE PROCEEDING DESCRIBED IN SUBSECTION (B) OF THIS SECTION, THE
12 STATE SHALL REQUIRE THE PRESENCE OF THE AFFIANT AS A PROSECUTION
13 WITNESS.

14 ~~(h) Any person who violates any of the provisions of this section, or refuses,~~
15 ~~neglects or fails to comply with the provisions and requirements thereof, or who obtains~~
16 ~~or possesses a prescription drug in violation of this section, shall be deemed guilty of a~~
17 ~~misdemeanor and upon conviction thereof shall be fined not more than one thousand~~
18 ~~dollars (\$1,000) and/or imprisoned for not more than two (2) years, or both.~~

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 1997.