

(PRE-FILED)

By: **Delegate Bromwell**
Requested: August 15, 2005
Introduced and read first time: January 11, 2006
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Controlled Dangerous Substances - Pseudoephedrine Products**

3 FOR the purpose of providing that a pseudoephedrine product may only be displayed
4 for sale in certain locations; prohibiting a person from purchasing a
5 pseudoephedrine product unless the person adheres to certain requirements;
6 requiring a pharmacy or a retail establishment to maintain a certain record and
7 post certain signs; limiting the quantity of a pseudoephedrine product that a
8 person may purchase within a certain time period; providing a certain exception;
9 requiring the Department of Health and Mental Hygiene to establish and
10 maintain a certain log of pseudoephedrine product purchases and provide
11 certain technical assistance; providing that the Department may disclose
12 information in the log to a law enforcement agent only in accordance with a
13 certain search warrant; providing certain penalties; defining a certain term; and
14 generally relating to restrictions on sales and purchases of pseudoephedrine
15 products.

16 BY adding to
17 Article - Criminal Law
18 Section 5-711
19 Annotated Code of Maryland
20 (2002 Volume and 2005 Supplement)

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

23 **Article - Criminal Law**

24 5-711.

25 (A) IN THIS SECTION, "PSEUDOEPHEDRINE PRODUCT" MEANS A COMPOUND,
26 MIXTURE, OR PREPARATION CONTAINING ANY DETECTABLE QUANTITY OF
27 PSEUDOEPHEDRINE, ITS SALTS OR OPTICAL ISOMERS, OR SALTS OF OPTICAL
28 ISOMERS.

1 (B) A PSEUDOEPHEDRINE PRODUCT MAY ONLY BE DISPLAYED FOR SALE:

2 (1) BEHIND A STORE COUNTER THAT IS NOT ACCESSIBLE TO
3 CUSTOMERS;

4 (2) IN A SECURE CASE THAT REQUIRES ASSISTANCE BY A STORE
5 EMPLOYEE FOR CUSTOMER ACCESS; OR

6 (3) ON THE SALES FLOOR IF:

7 (I) THE PSEUDOEPHEDRINE PRODUCT IS KEPT WITHIN 30 FEET
8 AND DIRECT LINE OF SIGHT OF A CASH REGISTER OR STORE COUNTER STAFFED BY
9 ONE OR MORE EMPLOYEES;

10 (II) RELIABLE ANTITHEFT DEVICES ARE USED ON THE PACKAGING
11 OF THE PSEUDOEPHEDRINE PRODUCT;

12 (III) RESTRICTED ACCESS SHELVING IS USED SO THAT:

13 1. ONLY ONE PACKAGE OF THE PSEUDOEPHEDRINE
14 PRODUCT MAY BE REMOVED BY A CONSUMER AT A TIME; AND

15 2. A DELAY OF AT LEAST 15 SECONDS OCCURS BEFORE
16 REPLACEMENT OF THE PACKAGE OF THE PSEUDOEPHEDRINE PRODUCT ON THE
17 SHELF; OR

18 (IV) THE PSEUDOEPHEDRINE PRODUCT IS KEPT UNDER CONSTANT
19 VIDEO SURVEILLANCE.

20 (C) A PERSON MAY NOT PURCHASE A PSEUDOEPHEDRINE PRODUCT UNLESS
21 THE PERSON:

22 (1) PRODUCES A VALID GOVERNMENT-ISSUED PHOTO IDENTIFICATION
23 WITH DATE OF BIRTH INDICATING THAT THE PERSON IS OVER THE AGE OF 18 YEARS;
24 AND

25 (2) SIGNS A LOG OR RECEIPT SHOWING:

26 (I) THE DATE OF THE TRANSACTION;

27 (II) THE NAME AND ADDRESS OF THE PERSON; AND

28 (III) THE AMOUNT OF THE PSEUDOEPHEDRINE PRODUCT
29 PURCHASED.

30 (D) EACH PHARMACY OR RETAIL ESTABLISHMENT SHALL:

31 (1) MAINTAIN A RECORD OF THE SIGNED LOGS OR RECEIPTS
32 ACCORDING TO THE FORM, MANNER, AND DURATION REQUIRED BY THE
33 DEPARTMENT; AND

1 (2) POST SIGNS IN CONSPICUOUS LOCATIONS EXPLAINING THE
2 RESTRICTIONS ON PSEUDOEPHEDRINE PRODUCT DISPLAYS AND PURCHASES AND
3 THE PUBLIC HEALTH AND SAFETY REASONS FOR THE RESTRICTIONS.

4 (E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A
5 PERSON MAY NOT PURCHASE MORE THAN 9 GRAMS OF ANY PSEUDOEPHEDRINE
6 PRODUCT WITHIN ANY 30-DAY PERIOD.

7 (2) THE LIMIT IN PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY
8 TO ANY QUANTITY OF PSEUDOEPHEDRINE PRODUCT DISPENSED:

9 (I) IN ACCORDANCE WITH A VALID PRESCRIPTION; OR

10 (II) BY A LICENSED HEALTH CARE PRACTITIONER IN THE COURSE
11 OF CARRYING OUT THE PROFESSION OF THE LICENSED HEALTH CARE
12 PRACTITIONER.

13 (F) THE DEPARTMENT SHALL:

14 (1) FOR THE PURPOSE OF MONITORING COMPLIANCE WITH THE
15 REQUIREMENTS OF THIS SECTION, ESTABLISH AND MAINTAIN A REAL-TIME
16 STATEWIDE ELECTRONIC LOG OF PSEUDOEPHEDRINE PRODUCT PURCHASES; AND

17 (2) PROVIDE TECHNICAL ASSISTANCE TO PHARMACIES AND RETAIL
18 ESTABLISHMENTS IN MEETING THE REQUIREMENTS OF THIS SECTION.

19 (G) THE DEPARTMENT MAY DISCLOSE INFORMATION IN THE REAL-TIME
20 STATEWIDE ELECTRONIC LOG TO A LAW ENFORCEMENT OFFICER ONLY IN
21 ACCORDANCE WITH A SEARCH WARRANT ISSUED UNDER § 1-203 OF THE CRIMINAL
22 PROCEDURE ARTICLE.

23 (H) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR
24 AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000 OR
25 IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2006.