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By: **Senator Harris**

Introduced and read first time: February 13, 2006

Assigned to: Rules

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A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Prescription Drug Violations - Penalties**

3 FOR the purpose of increasing the penalty for the crime of dispensing, giving, selling,  
4 possessing, or controlling a certain preparation containing opium or an opium  
5 derivative without a valid prescription; altering the classification from a  
6 misdemeanor to a felony and increasing the penalty for a subsequent violation of  
7 the crime of dispensing, giving, selling, possessing, or controlling a certain  
8 preparation containing opium or an opium derivative without a valid  
9 prescription; increasing the penalty for the crime of dispensing, manufacturing,  
10 distributing, possessing, affixing a false or counterfeit label to a certain  
11 receptacle containing, omitting, removing, altering, or obliterating a certain  
12 label or symbol on, obtaining, or attempting to obtain a prescription drug under  
13 certain circumstances; altering the classification from a misdemeanor to a  
14 felony and increasing the penalty for a subsequent violation of the crime of  
15 dispensing, manufacturing, distributing, possessing, affixing a false or  
16 counterfeit label to a certain receptacle containing, omitting, removing, altering,  
17 or obliterating a certain label or symbol on, obtaining, or attempting to obtain a  
18 prescription drug under certain circumstances; and generally relating to  
19 prescription drug violations.

20 BY repealing and reenacting, with amendments,  
21 Article - Criminal Law  
22 Section 5-503 and 5-701  
23 Annotated Code of Maryland  
24 (2002 Volume and 2005 Supplement)

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

27 **Article - Criminal Law**

28 5-503.

29 (a) In this section, "opium" includes:

1 (1) codeine; and

2 (2) a natural or synthetic compound, manufactured substance, salt,  
3 derivative, mixture, or preparation of opium.

4 (b) (1) Except on a valid prescription of an authorized prescriber as defined  
5 in § 12-101 of the Health Occupations Article, a person may not dispense, give, or sell  
6 a preparation containing opium or any of its derivatives.

7 (2) This subsection does not apply to:

8 (i) a sale made to an authorized provider; or

9 (ii) a sale made by a manufacturer, distributor, or licensed  
10 pharmacy to a hospital or institution that operates a dispensary in which an  
11 authorized provider is in charge.

12 (c) (1) Except on a prescription from an authorized prescriber as defined in  
13 § 12-101 of the Health Occupations Article, a person may not possess or control a  
14 preparation containing opium or its derivatives.

15 (2) A person may possess or control a preparation containing opium or its  
16 derivatives if the possession or control is in the regular course of lawful business,  
17 occupation, profession, employment, or duty of the person.

18 (d) A person who violates this section [is guilty of a misdemeanor and on  
19 conviction is subject to]:

20 (1) for a first violation, IS GUILTY OF A MISDEMEANOR AND ON  
21 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 18 MONTHS OR a fine  
22 not exceeding [\$1,000] \$10,000; OR

23 (2) for [a second] EACH SUBSEQUENT violation, IS GUILTY OF A FELONY  
24 AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 2 YEARS OR a  
25 fine not exceeding [\$2,000]; or

26 (3) for each subsequent violation, imprisonment not exceeding 18  
27 months] \$20,000 OR BOTH.

28 5-701.

29 (a) Sections 5-701 through 5-704 of this subtitle apply to:

30 (1) the sale of prescription drugs by a manufacturer, wholesale  
31 distributor, retail pharmacist, or jobber to a person not legally qualified or authorized  
32 to purchase and hold prescription drugs for use or resale; and

33 (2) an authorized provider's assistant who is not licensed to administer  
34 prescription drugs.

35 (b) A person may not dispense a prescription drug except:

- 1 (1) on an authorized provider's:
- 2 (i) written prescription; or
- 3 (ii) oral prescription that the pharmacist reduces to writing and  
4 files; or
- 5 (2) by refilling a written or oral prescription that is authorized:
- 6 (i) by the authorized provider in the original prescription; or
- 7 (ii) by oral direction that the pharmacist reduces to writing and  
8 files.

9 (c) A person may not dispense a prescription drug by filling or refilling a  
10 written or oral prescription of an authorized provider unless the drug bears a label  
11 that, in addition to any requirements of the Department or federal law, contains:

- 12 (1) the name and address of the dispenser;
- 13 (2) the serial number and date of the prescription;
- 14 (3) the name of the authorized provider; and
- 15 (4) if stated in the prescription, the name and address of the patient and  
16 the directions for use.

17 (d) Except as otherwise provided under this title, a person may not:

- 18 (1) manufacture, distribute, or possess with intent to distribute a  
19 prescription drug;
- 20 (2) affix a false or counterfeit label to a package, container, or other  
21 receptacle containing a prescription drug;
- 22 (3) omit, remove, alter, or obliterate a label or symbol that is required by  
23 federal, State, or local law on a prescription drug; or
- 24 (4) obtain or attempt to obtain a prescription drug by:
- 25 (i) fraud, deceit, or misrepresentation;
- 26 (ii) the counterfeiting or altering of a prescription or written order;
- 27 (iii) concealing a material fact;
- 28 (iv) using a false name or address;
- 29 (v) falsely assuming the title of or falsely representing that the  
30 person is a manufacturer, distributor, or authorized provider; or

1 (vi) making or issuing a false or counterfeit prescription or written  
2 order.

3 (e) A person who violates this section:

4 (1) FOR A FIRST VIOLATION, is guilty of a misdemeanor and on  
5 conviction is subject to imprisonment not exceeding 2 years or a fine not exceeding  
6 [\$1,000] \$10,000 or both; OR

7 (2) FOR EACH SUBSEQUENT VIOLATION, IS GUILTY OF A FELONY AND  
8 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 2 YEARS OR A FINE  
9 NOT EXCEEDING \$20,000 OR BOTH.

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