

SENATE BILL 401

J1, E1

8lr1757

By: **Senator Stone**

Introduced and read first time: January 31, 2008

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Ephedrine, Pseudoephedrine, or Phenylpropanolamine**
3 **Purchases – Statewide Electronic Logbook**

4 FOR the purpose of requiring the Alcohol and Drug Abuse Administration to assist in
5 the regulation of the sale of ephedrine, pseudoephedrine, or
6 phenylpropanolamine by establishing and maintaining a real-time statewide
7 electronic logbook for the purpose of allowing pharmacies and retailers to enter
8 into the logbook any transaction required to be reported by statute relating to
9 the sale of ephedrine, pseudoephedrine, or phenylpropanolamine; requiring the
10 Administration to adopt regulations requiring pharmacies and retailers to
11 maintain electronic logs of certain ephedrine, pseudoephedrine, or
12 phenylpropanolamine purchases, enter certain information about certain
13 purchases into the statewide electronic logbook, and require a person
14 purchasing, receiving, or otherwise acquiring ephedrine, pseudoephedrine, or
15 phenylpropanolamine to produce certain proof of identity and sign the electronic
16 log or a receipt that documents the date of the transaction, the name of the
17 person, and the quantity of ephedrine, pseudoephedrine, or
18 phenylpropanolamine purchased, received, or otherwise acquired; requiring the
19 Administration to provide pharmacies and retailers in the State access to the
20 electronic logbook for the purpose of entering transaction information required
21 to be reported by statute and certain technical assistance; providing that the
22 electronic logbook has the capability to calculate both State and federal
23 ephedrine, pseudoephedrine, or phenylpropanolamine purchase limitations;
24 providing that information entered into the electronic logbook is confidential
25 and is not subject to the Freedom of Information Act; requiring the
26 Administration to provide access to the real-time electronic logbook to certain
27 persons and law enforcement officials; authorizing the Administration to
28 destroy certain transaction records maintained in the real-time electronic
29 logbook within a certain date from the date of entry unless the transaction
30 record is being used in an ongoing criminal investigation or criminal proceeding;
31 prohibiting a pharmacy or retailer from selling ephedrine, pseudoephedrine, or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 phenylpropanolamine in violation of this Act; prohibiting a person from
2 knowingly releasing or disclosing to an unauthorized person confidential
3 information collected and maintained under this Act or obtaining confidential
4 information for a purpose not authorized by this Act; establishing penalties for a
5 violation of this Act; making this Act subject to a certain contingency; providing
6 for a delayed effective date; and generally relating to the sale or purchase of
7 ephedrine, pseudoephedrine, or phenylpropanolamine.

8 BY repealing and reenacting, without amendments,
9 Article – Health – General
10 Section 8–101(a) and (b)
11 Annotated Code of Maryland
12 (2005 Replacement Volume and 2007 Supplement)

13 BY adding to
14 Article – Health – General
15 Section 8–406
16 Annotated Code of Maryland
17 (2005 Replacement Volume and 2007 Supplement)

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

20 **Article – Health – General**

21 8–101.

22 (a) In this title the following words have the meanings indicated.

23 (b) “Administration” means the Alcohol and Drug Abuse Administration.

24 **8–406.**

25 (A) **THE ADMINISTRATION SHALL ASSIST IN THE REGULATION OF THE**
26 **SALE OF EPHEDRINE, PSEUDOEPHEDRINE, OR PHENYLPROPANOLAMINE BY:**

27 (1) **ESTABLISHING AND MAINTAINING A REAL–TIME STATEWIDE**
28 **ELECTRONIC LOGBOOK FOR THE PURPOSE OF ALLOWING PHARMACIES AND**
29 **RETAILERS TO ENTER INTO THE LOGBOOK A TRANSACTION REQUIRED TO BE**
30 **REPORTED BY STATUTE RELATING TO THE SALE OF EPHEDRINE,**
31 **PSEUDOEPHEDRINE, OR PHENYLPROPANOLAMINE;**

32 (2) **ADOPTING REGULATIONS THAT REQUIRE PHARMACIES AND**
33 **RETAILERS TO:**

1 (I) MAINTAIN AN ELECTRONIC LOG OF EPHEDRINE,
2 PSEUDOEPHEDRINE, OR PHENYLPROPANOLAMINE PURCHASES REQUIRED TO
3 BE REPORTED BY STATUTE;

4 (II) ENTER TRANSACTION INFORMATION REQUIRED TO BE
5 MAINTAINED BY THIS SECTION INTO THE REAL-TIME STATEWIDE ELECTRONIC
6 LOGBOOK MAINTAINED BY THE ADMINISTRATION; AND

7 (III) REQUIRE THAT A PERSON PURCHASING, RECEIVING, OR
8 OTHERWISE ACQUIRING EPHEDRINE, PSEUDOEPHEDRINE, OR
9 PHENYLPROPANOLAMINE:

10 1. PRODUCE CURRENT AND VALID PROOF OF
11 IDENTITY; AND

12 2. SIGN AN ELECTRONIC LOG OR RECEIPT THAT
13 DOCUMENTS THE DATE OF THE TRANSACTION, THE NAME OF THE PERSON, AND
14 THE QUANTITY OF EPHEDRINE, PSEUDOEPHEDRINE, OR
15 PHENYLPROPANOLAMINE PURCHASED, RECEIVED, OR OTHERWISE ACQUIRED;
16 AND

17 (3) PROVIDING PHARMACIES AND RETAILERS IN THE STATE:

18 (I) ACCESS TO THE REAL-TIME STATEWIDE ELECTRONIC
19 LOGBOOK FOR THE PURPOSE OF ENTERING TRANSACTION INFORMATION
20 REQUIRED TO BE REPORTED BY STATUTE; AND

21 (II) TECHNICAL ASSISTANCE TO PHARMACIES AND
22 RETAILERS IN MEETING THE REQUIREMENTS OF THIS SECTION.

23 (B) (1) THE ELECTRONIC LOGBOOK DESCRIBED IN SUBSECTION (A)
24 OF THIS SECTION SHALL HAVE THE CAPABILITY TO CALCULATE BOTH STATE
25 AND FEDERAL EPHEDRINE, PSEUDOEPHEDRINE, OR PHENYLPROPANOLAMINE
26 PURCHASE LIMITATIONS.

27 (2) INFORMATION ENTERED INTO THE ELECTRONIC LOGBOOK
28 SHALL BE CONFIDENTIAL AND IS NOT SUBJECT TO THE FREEDOM OF
29 INFORMATION ACT.

30 (C) THE ADMINISTRATION SHALL PROVIDE ACCESS TO THE REAL-TIME
31 ELECTRONIC LOGBOOK DESCRIBED IN SUBSECTION (A) OF THIS SECTION TO:

32 (1) A PERSON AUTHORIZED TO PRESCRIBE OR DISPENSE
33 PRODUCTS CONTAINING EPHEDRINE, PSEUDOEPHEDRINE, OR

1 PHENYLPROPANOLAMINE FOR THE PURPOSE OF PROVIDING MEDICAL CARE OR
2 PHARMACEUTICAL CARE;

3 (2) A LOCAL, STATE, OR FEDERAL LAW ENFORCEMENT OFFICIAL
4 OR A LOCAL, STATE, OR FEDERAL PROSECUTOR; AND

5 (3) A LOCAL, STATE, OR FEDERAL OFFICIAL WHO REQUESTS
6 ACCESS FOR THE PURPOSE OF FACILITATING A PRODUCT RECALL NECESSARY
7 FOR THE PROTECTION OF THE PUBLIC HEALTH AND SAFETY.

8 (D) THE ADMINISTRATION MAY DESTROY A TRANSACTION RECORD
9 MAINTAINED IN THE REAL-TIME ELECTRONIC LOGBOOK DESCRIBED IN
10 SUBSECTION (A) OF THIS SECTION WITHIN 2 YEARS FROM THE DATE OF ITS
11 ENTRY UNLESS THE TRANSACTION RECORD IS BEING USED IN AN ONGOING
12 CRIMINAL INVESTIGATION OR CRIMINAL PROCEEDING.

13 (E) (1) A PHARMACY OR RETAILER MAY NOT SELL EPHEDRINE,
14 PSEUDOEPHEDRINE, OR PHENYLPROPANOLAMINE IN VIOLATION OF A
15 REQUIREMENT ESTABLISHED BY THE ADMINISTRATION UNDER SUBSECTION (A)
16 OF THIS SECTION.

17 (2) A PERSON WHO WILLFULLY VIOLATES THIS SUBSECTION IS
18 GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT
19 EXCEEDING \$10,000.

20 (F) (1) A PERSON MAY NOT KNOWINGLY:

21 (I) RELEASE OR DISCLOSE TO AN UNAUTHORIZED PERSON
22 CONFIDENTIAL INFORMATION COLLECTED AND MAINTAINED UNDER THIS
23 SECTION; OR

24 (II) OBTAIN CONFIDENTIAL INFORMATION FOR A PURPOSE
25 NOT AUTHORIZED BY THIS SECTION.

26 (2) A PERSON WHO WILLFULLY VIOLATES THIS SUBSECTION IS
27 GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT
28 EXCEEDING \$10,000.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is contingent on
30 funds being included in the annual State budget for the Alcohol and Drug Abuse
31 Administration to establish and maintain the real-time statewide electronic logbook
32 required under this Act.

1 SECTION 3. AND BE IT FURTHER ENACTED, That, subject to the provisions
2 of Section 2 of this Act, this Act shall take effect July 1, 2009.