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**HOUSE BILL NO. 1040**

**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the Joint Conference Committee

on March 11, 2006)

(Patron Prior to Substitute—Delegate Kilgore)

A *BILL to amend the Code of Virginia by adding a section numbered 18.2-248.8, relating to regulation of sale of methamphetamine precursors; penalty.*

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 18.2-248.8 as follows:**

**§ 18.2-248.8. Sale of the methamphetamine precursors ephedrine and pseudoephedrine; penalty.**

*A. The sale of any product containing ephedrine, pseudoephedrine, or any of their salts, isomers, or salts of isomers, alone or in a mixture, shall be restricted when provided or sold by a retail distributor or pharmacy as follows:*

*1. Retail sales shall be limited to three individual packages and no more than nine grams total of either ephedrine or pseudoephedrine per transaction.*

*2. Retail personnel shall be instructed in special procedures to be used in the sale of drug products containing ephedrine or pseudoephedrine.*

*3. When any substance in which ephedrine or pseudoephedrine is the only active ingredient is provided or sold:*

*a. The product shall only be displayed for sale behind a store counter that is not accessible to consumers, or in a locked case that requires assistance by a store employee for customer access; and*

*b. Any person purchasing, receiving, or otherwise acquiring any such substance shall, prior to taking possession, present photo identification issued by a government or an educational institution.*

*4. When any substance is provided or sold in which ephedrine or pseudoephedrine is one of two or more active ingredients:*

*a. The product may only be displayed for sale behind a store counter that is not accessible to consumers, or in a locked case that requires assistance by a store employee for customer access, or*

*b. The product may be sold from the sales floor if the retailer adopts at least one of the following four options:*

*(1) The product shall be kept within 30 feet and direct line of sight of a cash register or store counter staffed by one or more store employees;*

*(2) Reliable anti-theft devices are used on packages of the product;*

*(3) Restricted access shelving is used; or*

*(4) The product is kept under constant video surveillance.*

*B. This section does not apply to:*

*1. Any quantity of such substance properly dispensed under a valid prescription;*

*2. Liquid, liquid capsule, and gel capsule products containing pseudoephedrine; or*

*3. Pediatric products containing pseudoephedrine or ephedrine, their salts or optical isomers, or salts of optical isomers if the pediatric product:*

*a. Is primarily intended for administration to children under 12 years of age, according to label instructions, and is either in solid dosage form with individual dosage units not exceeding 15 milligrams of ephedrine or pseudoephedrine; or in liquid form and recommended dosage units do not exceed 15 milligrams of ephedrine or pseudoephedrine per five milliliters of liquid product; or*

*b. Is in liquid form primarily intended for administration to children under two years of age with a recommended dosage not exceeding two milliliters, and the total package contains not more than one fluid ounce.*

*C. Any person who willfully violates this section is guilty of a Class 1 misdemeanor.*

**2. That retail sellers of ephedrine and pseudoephedrine shall maintain records of all such sales transactions for one year beginning July 1, 2006 and ending July 1, 2007. Retail sellers shall not use or disclose the information in the records for any purpose other than to ensure compliance with this act or to facilitate a product recall necessary to protect public health and safety. However, retail sellers shall report the information in the log to law-enforcement personnel upon request.**

**3. That on or before December 1, 2007, the State Police shall (i) assess the effectiveness of the records kept by the retail sellers as a tool to investigate and prosecute criminal violations and (ii) report its assessment to the Virginia State Crime Commission.**

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