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SENATE BILL NO. 397

Offered January 9, 2008

Prefiled January 8, 2008

A BILL to amend and reenact § 18.2-248.8 of the Code of Virginia, relating to sale of methamphetamine precursors; electronic log; penalty.

Patron—Edwards

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 18.2-248.8 of the Code of Virginia is amended and reenacted 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 no more than 3.6 grams total of either ephedrine or pseudoephedrine daily per individual customer.

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

3. ~~Effective September 30, 2006, when~~ When any substance containing ephedrine or pseudoephedrine 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;

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;

c. The seller shall maintain a ~~written~~ *or an* electronic log with the purchaser's name, *date of birth*, and address, *the type of identification provided by the purchaser, the identification number and the issuing government or educational institution*, the product name, quantity sold, and the date and time of the transaction;

d. ~~The purchaser shall enter into the log his name and address, the time and date of the sale, and sign the record;~~

e. The purchaser shall sign the record acknowledging an understanding of the applicable sales limit and that ~~entering~~ *providing* false statements or misrepresentations ~~in~~ *regarding the information required to be entered into* the log may subject the purchaser to criminal penalties under § 1001 of Title 18 of the United States Code; and

f. The sale of a single package to an individual shall not require entry in the log provided it is an isolated sale and the package contains not more than 60 milligrams of pseudoephedrine.

B. This section does not apply to:

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

2. Any product that the United States Attorney General determines cannot be used in the illicit manufacture of methamphetamine.

C. Retail sellers of ephedrine and pseudoephedrine shall maintain records of all such sales transactions for a period of two years from the date of the last entry ~~beginning September 30, 2006~~. Retail sellers shall not use or disclose the information in the records for any purpose other than to ensure compliance with this section, the federal Combat Methamphetamine Epidemic Act of 2005, or to facilitate a product recall necessary to protect public health and safety. However, retail sellers shall ~~report the information in the log to allow~~ law-enforcement personnel *to inspect the log* upon request and *without a warrant*, and any retail seller who in good faith releases information maintained in the log to law-enforcement authorities is immune from civil liability for such release unless the release constitutes gross negligence or intentional, wanton or willful misconduct.

D. *The log shall be an electronic purchase log established and administered by the Board of Pharmacy that shall be capable of checking compliance against all state, local and federal laws, including interfacing with other states to ensure comprehensive compliance.*

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

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