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HOUSE BILL NO. 2359

Offered January 14, 2009

Prefiled January 14, 2009

A BILL to amend and reenact § 18.2-248.8 of the Code of Virginia, relating to tracking sales of ephedrine and pseudoephedrine.

Patron—Gilbert

Referred to Committee on Militia, Police and Public Safety

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 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 electronic log with the purchaser's name and address, 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 false statements or misrepresentations in 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 law-enforcement personnel upon request 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.

C1. The Board of Pharmacy, in conjunction with local law-enforcement officials, shall establish a pilot program in the Counties of Page, Clarke, Frederick, Rockingham, Shenandoah, and Warren to implement an electronic recordkeeping system of the transactions involving the distribution of ephedrine, pseudoephedrine, or any of their salts, isomers, or salts of isomers, alone or in a mixture, provided or sold by a retail distributor or pharmacy as required by this section. Such system shall monitor data in compliance with current federal and state law and regulations.

All pharmacies in the participating counties shall be required to participate in the pilot program. These pharmacies shall use the system to directly enter their transaction data on these products at the point of sale.

D. Any person who willfully violates subsections A, B, or C of this section is guilty of a Class 1 misdemeanor.

59 2. That the provisions of this act shall be contingent upon funds being provided by a third party
60 or agency, such that there will be no cost to participating pharmacies.