

SENATE BILL 944

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4lr0656
CF HB 1171

By: **Senator Kelly**

Introduced and read first time: February 2, 2024

Assigned to: Finance and Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 2, 2024

CHAPTER _____

1 AN ACT concerning

2 **Nonprescription Drugs and Devices – Provision by Registered Nurses and Sale**
3 **of Contraceptives Through Automatic Devices**

4 FOR the purpose of ~~repealing the prohibition on the sale of certain contraceptives by means~~
5 ~~of a vending machine or other automatic device~~ repealing a prohibition against the
6 sale of nonlatex condoms through a vending machine or other automatic device;
7 prohibiting the sale of natural membrane condoms through a vending machine or
8 other automatic device; authorizing registered nurses to provide, without a
9 prescription, nonprescription drugs and devices in a local health department under
10 certain circumstances; and generally relating to nonprescription drugs and devices.

11 BY repealing

12 Article – Criminal Law

13 Section 10–104 ~~and 10–105~~

14 Annotated Code of Maryland

15 (2021 Replacement Volume and 2023 Supplement)

16 BY repealing and reenacting, without amendments,

17 Article – Health – General

18 Section 3–403(a)(1)

19 Annotated Code of Maryland

20 (2023 Replacement Volume)

21 BY repealing and reenacting, with amendments,

22 Article – Health – General

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 3–403(b)
 2 Annotated Code of Maryland
 3 (2023 Replacement Volume)

4 BY adding to
 5 Article – Health – General
 6 Section 21–228
 7 Annotated Code of Maryland
 8 (2023 Replacement Volume)

9 BY repealing and reenacting, with amendments,
 10 Article – Health Occupations
 11 Section 8–512
 12 Annotated Code of Maryland
 13 (2021 Replacement Volume and 2023 Supplement)

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

16 **Article – Criminal Law**

17 [10–104.

18 (a) A person may not sell or offer for sale a nonlatex condom by means of a vending
 19 machine or other automatic device.

20 (b) (1) A person who violates this section is guilty of a misdemeanor and on
 21 conviction is subject to a fine not exceeding \$1,000 for each violation.

22 (2) Each vending machine or other automatic device in violation of this
 23 section is a separate violation.]

24 ~~[10–105.~~

25 ~~(a) A person may not sell or offer for sale a contraceptive or a contraceptive device,~~
 26 ~~whether or not advertised as a prophylactic, by means of a vending machine or other~~
 27 ~~automatic device at a kindergarten, nursery school, or elementary or secondary school.~~

28 ~~(b) (1) A person who violates this section is guilty of a misdemeanor and on~~
 29 ~~conviction is subject to a fine not exceeding \$1,000 for each violation.~~

30 ~~(2) Each vending machine or other automatic device in a school is a~~
 31 ~~separate violation.]~~

32 **Article – Health – General**

33 3–403.

1 (a) (1) There is a Committee on Registered Nurses Personally Preparing and
2 Dispensing Drugs and Devices in Local Health Departments.

3 (b) The Committee shall:

4 (1) Develop and approve a formulary for use by registered nurses **THAT**
5 **INCLUDES ALL NONPRESCRIPTION CONTRACEPTIVE DRUGS AND DEVICES**
6 **APPROVED BY THE U.S. FOOD AND DRUG ADMINISTRATION FOR**
7 **OVER-THE-COUNTER USE**; and

8 (2) Annually review the formulary to ensure compliance with current
9 prescribing standards.

10 **21-228.**

11 **A PERSON MAY NOT SELL OR OFFER FOR SALE A NATURAL MEMBRANE**
12 **CONDOM BY MEANS OF A VENDING MACHINE OR OTHER AUTOMATIC DEVICE.**

13 Article – Health Occupations

14 8-512.

15 (a) (1) In this section the following words have the meanings indicated.

16 (2) “Authorized prescriber” means a licensed registered nurse, licensed
17 dentist, licensed physician, licensed physician’s assistant, licensed podiatrist, or other
18 individual authorized by law to prescribe prescription or nonprescription drugs or devices.

19 (3) (i) “Device” means an item used in the diagnosis, treatment, or
20 prevention of disease.

21 (ii) “Device” does not include:

22 1. Surgical or dental instruments;

23 2. Physical therapy equipment;

24 3. X-ray apparatuses; or

25 4. Component parts of or accessories for any of the items
26 described in items 1 through 3 of this subparagraph.

27 (4) (i) “Dispense” means a procedure that results in the receipt of a
28 drug or device by a patient or a patient’s agent.

- 1 (ii) “Dispense” includes:
- 2 1. Interpreting an authorized prescriber’s prescription for a
3 drug or device;
- 4 2. Selecting and labeling the drug or device prescribed;
- 5 3. Measuring and packaging the drug or device in accordance
6 with State and federal law; and
- 7 4. Documenting the transaction in the patient’s medical
8 record.

9 (5) “Drug” means, unless the context requires otherwise, a prescription or
10 nonprescription drug.

11 (6) “Formulary” means a list of drugs and devices.

12 (7) “Nonprescription drug **OR DEVICE**” means a drug **OR DEVICE** that:

13 (i) May be sold without a prescription; and

14 (ii) Is labeled for use by a consumer in accordance with State and
15 federal law.

16 (8) “Personally prepare and dispense” means to:

17 (i) Physically prepare a prescription;

18 (ii) Perform a final check of the prescription before dispensing it to a
19 patient; and

20 (iii) Not delegate any step of the dispensing process.

21 (9) “Prescription drug” means a drug that, under § 21–220 of the Health –
22 General Article, may be dispensed only on the prescription of an authorized prescriber.

23 (b) If a registered nurse complies with the requirements of this section, the
24 registered nurse may personally prepare and dispense drugs and devices **OR PROVIDE,**
25 **WITHOUT A PRESCRIPTION, NONPRESCRIPTION DRUGS AND DEVICES** in a local health
26 department:

27 (1) In accordance with the Overdose Response Program under Title 13,
28 Subtitle 31 of the Health – General Article or the Expedited Partner Therapy Pilot Program
29 under § 18–214.1 of the Health – General Article; or

1 (2) To patients in need of communicable disease, alcohol and drug abuse,
2 family planning, or reproductive health services.

3 (c) A registered nurse may personally prepare and dispense drugs and devices
4 **OR PROVIDE, WITHOUT A PRESCRIPTION, NONPRESCRIPTION DRUGS AND DEVICES**
5 if the registered nurse:

6 (1) Complies with the formulary developed and approved under § 3–403(b)
7 of the Health – General Article;

8 (2) Has successfully completed a training program administered by the
9 Department in accordance with § 3–405 of the Health – General Article;

10 (3) Maintains the patient’s health record in a manner that ensures the
11 confidentiality of the patient’s drug and device medication record in accordance with State
12 and federal laws;

13 (4) Complies with drug and device storage and inventory procedures in
14 accordance with Department policy; and

15 (5) **[Has] FOR A PRESCRIPTION DRUG OR DEVICE, HAS** received a
16 prescription from an authorized prescriber employed at a local health department.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2024.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.