

HOUSE BILL 2173

By Goins

AN ACT to amend Tennessee Code Annotated, Title 53  
and Title 63 relative to containers for controlled  
substances.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 53, Chapter 11, Part 3, is amended by  
adding the following as a new section:

(a)

(1) Except as otherwise provided in subdivisions (a)(2) and (a)(3), no  
drug that contains a controlled substance included in Schedule II shall be  
dispensed without being in a lockable vial.

(2) Subdivision (a)(1) does not apply when:

(A) The ultimate user, due to physical limitations, would have  
difficulty opening a lockable vial;

(B) The ultimate user requests, in writing, that the drug not be in a  
lockable vial; or

(C) When the prescription is dispensed in an institutional  
healthcare setting or long-term care setting and the drug will be  
administered to the ultimate user by a healthcare professional.

(3) The board of pharmacy may promulgate rules that establish  
additional exceptions for circumstances in which requiring a lockable vial would  
not be practicable and is therefore not required.

(b) For purposes of this section, "lockable vial" means a disposable container  
that:

(1) Has special packaging as defined in 15 U.S.C. § 1471; and

(2) Has a locking-cap closure mechanism that can only be unlocked biometrically, or by using a numeric or alphanumeric combination code that:

(A) Is selected by the ultimate user, the guardian of the ultimate user, or provided by the prescribing physician when the prescription is transmitted to the pharmacy; and

(B) Is encoded in the locking cap by the pharmacy when the prescription is dispensed.

(c) In filling a prescription for a drug containing a Schedule II controlled substance for an ultimate user that is under eighteen (18) years of age, the drug must be dispensed in a lockable vial that is encoded with a numeric or alphanumeric combination selected by the ultimate user's parent or legal guardian.

(d) The dispensing pharmacy and its personnel have no liability for any adverse consequences as a result of providing an ultimate user's combination code either:

(1) Online in a password-protected ultimate user account; or

(2) Verbally, by telephone, after an ultimate user identity authentication procedure in which the ultimate user verbally provides the user's date of birth and either the user's motor vehicle license number or social security number.

(e) Manufacturers shall pay pharmacies through drug rebate, passed through by wholesalers as necessary, an amount to cover the costs of the lockable vial when a prescription that is produced by the manufacturer is dispensed by the pharmacy in a lockable vial. The drug rebate amount must be in addition to all other amounts paid by the manufacturer to cover the costs of the drug. The board shall set the amount of the drug rebate required pursuant to this subsection (e) not to exceed one dollar and ninety-nine cents (\$1.99).

(f) The board is authorized to promulgate rules to effectuate the purposes of this section. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 2. For purposes of promulgating rules, this act shall take effect upon becoming a law. For all other purposes, this act shall take effect July 1, 2018, the public welfare requiring it.