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H.212

Introduced by Representatives McFaun of Barre Town and Stevens of
Shoreham

Referred to Committee on

Date:

Subject: Health; regulated drugs; ephedrine; registry

Statement of purpose of bill as introduced: This bill proposes to establish an
electronic registry system for monitoring the purchase of products containing
ephedrine, pseudoephedrine, or phenylpropanolamine.

An act relating to monitoring the purchase of products containing
ephedrine, pseudoephedrine, or phenylpropanolamine

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 18 V.S.A. § 4234b is amended to read:

§ 4234b. EPHEDRINE AND PSEUDOEPHEDRINE

* * *

(b) Sale.

(1) A drug product containing ephedrine base, pseudoephedrine base, or
phenylpropanolamine base shall not be distributed at retail to the general
public unless it is maintained in a locked display case or behind the counter out
of the public's reach.

1 (2)(A) A retail establishment shall not knowingly sell to a person within
2 a calendar day any drug product or combination of drug products containing a
3 total of more than 3.6 grams of ephedrine base, pseudoephedrine base, or
4 phenylpropanolamine base.

5 (B) This subdivision shall not apply to drug products dispensed
6 pursuant to a valid prescription.

7 (3) A person or business which violates this subdivision shall:

8 (A) for a first violation be assessed a civil penalty of not more than
9 \$100.00~~;~~ and

10 (B) for a second and subsequent violation be assessed a civil penalty
11 of not more than \$500.00.

12 (c) Electronic registry system.

13 (1)(A) Retail establishments shall use an electronic registry system to
14 record the sale of products made pursuant to subsection (b) of this section. The
15 electronic registry system shall have the capacity to block a sale of
16 nonprescription drug products containing ephedrine base, pseudoephedrine
17 base, or phenylpropanolamine base that would result in a purchaser exceeding
18 the lawful daily amount. The system shall contain an override function that
19 may be used by an agent of a retail establishment who is dispensing the drug
20 product and who has a reasonable fear of imminent bodily harm if the
21 transaction is not completed.

1 (B) The electronic registry system shall be available free of charge to
2 the State of Vermont, retail establishments, and local law enforcement
3 agencies.

4 (C) The electronic registry system shall operate in real time to enable
5 communication among in-state users and users of similar systems in
6 neighboring states.

7 (D) The State shall use the National Precursor Log Exchange
8 (NPLEx) online portal or its equivalent to host Vermont's electronic registry
9 system.

10 (2)(A) Prior to completing a sale under subsection (b) of this section, a
11 retail establishment shall require the person purchasing the drug product to
12 present a current, valid government-issued photograph identification
13 document. The retail establishment shall record in the electronic registry
14 system:

15 (i) the name and address of the purchaser;

16 (ii) the name of the drug product and quantity sold in grams;

17 (iii) the date and time of purchase;

18 (iv) the form of identification presented, the issuing government
19 entity, and the corresponding identification number; and

20 (v) the name of the person selling or furnishing the drug product.

1 (B) If the retail establishment experiences an electric or mechanical
2 failure of the electronic registry system and is unable to comply with the
3 electronic recording requirement, the retail establishment shall maintain a
4 written log or an alternative electronic record-keeping mechanism until the
5 retail establishment is able to comply fully with this subsection (c).

6 (C) A retail establishment shall maintain all records of drug product
7 purchases made pursuant to this subsection (c) for a minimum of two years.

8 (3)(A) The Department of Public Safety may enter into reciprocal
9 agreements with other states that have similar electronic registry systems so
10 long as access under the agreement is consistent with the privacy, security, and
11 disclosure protections in this section.

12 (B) Data within the electronic registry system shall be accessible only
13 to an employee of the Department of Public Safety or of a local law
14 enforcement agency pursuant to a bona fide specific investigation, or to an
15 electronic registry system or similar entity in another state pursuant to a
16 reciprocal agreement to share information with the Department of Public
17 Safety as described in subdivision (3)(A) of this subsection (c).

18 (C) Except as provided in subdivision (B) of this subdivision (3),
19 data within the electronic registry system is confidential and is exempt from
20 public inspection and copying under the Public Records Act.

1 (4) A person or retail establishment that violates this subsection (c)

2 shall:

3 (A) for a first violation be assessed a civil penalty of not more than

4 \$100.00; and

5 (B) for a second or subsequent violation be assessed a civil penalty of

6 not more than \$500.00.

7 (d) This section shall not apply to a manufacturer ~~which~~ that has obtained

8 an exemption from the Attorney General of the United States under Section

9 711(d) of the federal Combat Methamphetamine Epidemic Act of 2005.

10 ~~(d)~~(e) As used in this section:

11 (1) “Distributor” means a person, other than a manufacturer or
12 wholesaler, who sells, delivers, transfers, or in any manner furnishes a drug
13 product to any person who is not the ultimate user or consumer of the product.

14 (2) “Knowingly” means having actual knowledge of the relevant facts.

15 (3) “Manufacturer” means a person who produces, compounds,
16 packages, or in any manner initially prepares a drug product for sale or use.

17 (4) “Wholesaler” means a person, other than a manufacturer, who sells,
18 transfers, or in any manner furnishes a drug product to any other person for the
19 purpose of being resold.

20 (5) “Local law enforcement agency” shall have the same meaning as in
21 13 V.S.A. § 5401.

1 Sec. 2. EFFECTIVE DATE

2 This act shall take effect on July 1, 2013.