

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011  
4  
5 By: Senator P. Malone

# A Bill

SENATE BILL 437

## For An Act To Be Entitled

8 AN ACT TO CLARIFY THE ROLE OF PHARMACISTS WITH REGARD  
9 TO EPHEDRINE, PSEUDOEPHEDRINE, OR  
10 PHENYLPROPANOLAMINE; TO IMPROVE THE PROCESS FOR  
11 IDENTIFYING PERSONS AUTHORIZED TO PURCHASE EPHEDRINE,  
12 PSEUDOEPHEDRINE, OR PHENYLPROPANOLAMINE; TO AUTHORIZE  
13 THE ARKANSAS STATE BOARD OF PHARMACY TO PROPOSE  
14 ADDITIONS TO THE LIST OF DRUGS SIMILAR TO EPHEDRINE,  
15 PSEUDOEPHEDRINE, OR PHENYLPROPANOLAMINE; AND FOR  
16 OTHER PURPOSES.

## Subtitle

19 AN ACT TO CLARIFY THE ROLE OF PHARMACISTS  
20 WITH REGARD TO EPHEDRINE,  
21 PSEUDOEPHEDRINE, OR PHENYLPROPANOLAMINE.  
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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27 SECTION 1. Arkansas Code § 5-64-1103(c), concerning sales limits on  
28 ephedrine and similar drugs, is amended to read as follows:

29 (c)(1)(A) ~~{Repealed.}~~ Except under a valid prescription, before  
30 dispensing, selling, transferring, or otherwise furnishing a product  
31 containing ephedrine, pseudoephedrine, or phenylpropanolamine that is not  
32 exempt under subdivision (b)(1) or (b)(2) of this section, a pharmacist shall  
33 make a professional determination, based on a pharmacist-patient  
34 relationship, as to whether or not there is a legitimate medical and  
35 pharmaceutical need for the drug.

36 (B) The determination under subdivision (c)(1)(A) of this



1 section may be based on factors including without limitation:

2 (i) Prior medication-filling history;

3 (ii) Patient screening; and

4 (iii) Other tools that provide professional  
5 reassurance to the pharmacist that a legitimate medical and pharmaceutical  
6 need exists.

7 (2) The Arkansas State Board of Pharmacy may:

8 (A) Review determinations made under subdivision (c)(1) of  
9 this section; and

10 (B) Take appropriate disciplinary action as required.

11  
12 SECTION 2. Arkansas Code § 5-64-1103(d)(4)(B), concerning sales limits  
13 on ephedrine and similar drugs, is amended to read as follows:

14 (B) The person making the sale shall require proof of age  
15 from the purchaser, ~~unless from the purchaser's outward appearance the person~~  
16 ~~would reasonably presume the purchaser to be twenty five (25) years of age or~~  
17 ~~older.~~

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19 SECTION 3. Arkansas Code § 5-64-1105(2)(A), concerning the definitions  
20 of proof of age and proof of identity, is amended to read as follows:

21 (2)(A) "Proof of age" and "proof of identity" means any document  
22 issued by ~~a governmental agency~~ the United States Government or its states or  
23 territories that contains ~~a description of the person or~~ a photograph of the  
24 person, ~~or both, and gives~~ the person's date of birth, the person's current  
25 address, and a functioning magnetic strip or bar code.

26  
27 SECTION 4. Arkansas Code § 5-64-1111 is amended to read as follows:

28 5-64-1111. Liability of pharmacy or pharmacist.

29 (a) A pharmacy in this state is not liable civilly for a sale of  
30 ephedrine, pseudoephedrine, or phenylpropanolamine that occurs at another  
31 pharmacy in this state.

32 (b) A pharmacy or pharmacist is not civilly liable for a determination  
33 made under § 5-64-1103(c) or for any refusal to dispense, sell, transfer, or  
34 otherwise furnish ephedrine, pseudoephedrine, or phenylpropanolamine based on  
35 a determination of age or identity.

1 SECTION 5. Arkansas Code Title 5, Chapter 64, Subchapter 11 is amended  
2 to add an additional section to read as follows:

3 5-64-1113. Pharmacist-authorized drugs.

4 (a) Upon recommendation of the Arkansas State Board of Pharmacy, the  
5 Department of Health may adopt rules adding to a list of additional non-  
6 prescription drugs that are subject to the same restrictions as are imposed  
7 for ephedrine, pseudoephedrine, or phenylpropanolamine under § 5-64-1103(c)  
8 and (d)(4) and § 5-64-1104.

9 (b) A pharmacy or a pharmacist has the same immunity from civil  
10 liability with regard to non-prescription drugs under subsection (a) of this  
11 section as is provided under § 5-64-1111 for actions concerning ephedrine,  
12 pseudoephedrine, or phenylpropanolamine.

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