

**SENATE . . . . . No. 1106**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Pavel M. Payano*

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act specifying an electronic system to ensure that sales of certain products containing pseudoephedrine (PSE) do not exceed limits established under federal law.

PETITION OF:

NAME:

*Pavel M. Payano*

DISTRICT/ADDRESS:

*First Essex*

**SENATE . . . . . No. 1106**

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By Mr. Payano, a petition (accompanied by bill, Senate, No. 1106) of Pavel M. Payano for legislation to specify an electronic system to ensure that sales of certain products containing pseudoephedrine (PSE) do not exceed limits established under federal law. The Judiciary.

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninety-Third General Court  
(2023-2024)**  
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An Act specifying an electronic system to ensure that sales of certain products containing pseudoephedrine (PSE) do not exceed limits established under federal law.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 94C of the General Laws is hereby amended by inserting after  
2 section 49 the following section:-

3 Section 50. (a) Definitions. The following definitions apply to this section 50.

4 (1) "Real-time stop sale system" means a system intended to be used by law enforcement  
5 agencies and pharmacies or other business establishments that:

6 (A) is installed, operated, and maintained free of any one-time or recurring charge to the  
7 business establishment or to the state;

8 (B) is able to communicate in real time with similar systems operated in other states and  
9 similar systems containing information submitted by more than one state;

10 (C) complies with the security policy of the Criminal Justice Information Services  
11 division of the Federal Bureau of Investigation;

12 (D) complies with information exchange standards adopted by the National Information  
13 Exchange Model;

14 (E) uses a mechanism to prevent the completion of a sale of a product containing  
15 ephedrine, pseudoephedrine, or norpseudoephedrine that would violate state or federal law  
16 regarding the purchase of a product containing those substances; and

17 (F) is equipped with an override of the mechanism that:

18 (i) may be activated by an employee of a business establishment; and

19 (ii) creates a record of each activation of the override.

20 (b)(1) A retailer shall not sell to the same person, and a person shall not purchase,  
21 products containing more than three and six tenths (3.6) grams per day or more than nine (9)  
22 grams per thirty day period of ephedrine or pseudoephedrine base, or their isomers. The limits  
23 shall apply to the total amount of base ephedrine and pseudoephedrine contained in the products,  
24 and not the overall weight of the products.

25 (2) Nonprescription products containing pseudoephedrine or ephedrine shall be  
26 maintained behind the counter or in a locked case where the customer does not have direct  
27 access.

28 (c) The retailer shall require any person purchasing a nonprescription product that  
29 contains pseudoephedrine or ephedrine to present valid government issued photo identification at  
30 the point of sale. The retailer shall record the name and address of the purchaser; name and

31 quantity of product purchased; date and time purchased; and purchaser identification type and  
32 number, such as driver license state and number, and require the purchaser's signature in a  
33 logbook.

34 (d) Beginning January 1, 2024, a retailer shall, before completing a sale under this  
35 section, electronically submit the required information to the real-time stop sale system  
36 administered by the department of public health or such other appropriate state agency; provided  
37 that the system is available without a charge to retailers for access. Absent negligence,  
38 wantonness, recklessness, or deliberate misconduct, any retailer utilizing the electronic sales  
39 tracking system in accordance with this subdivision shall not be civilly liable as a result of any  
40 act or omission in carrying out the duties required by this subsection and shall be immune from  
41 liability to any third party unless the retailer has violated any provision of this subsection in  
42 relation to a claim brought for such violation.

43 (e) If a retailer selling a nonprescription product containing pseudoephedrine or  
44 ephedrine experiences mechanical or electronic failure of the electronic sales tracking system  
45 and is unable to comply with the electronic sales tracking requirement, the retailer shall maintain  
46 a written log or an alternative electronic recordkeeping mechanism until such time as the retailer  
47 is able to comply with the electronic sales tracking requirement.

48 (f) The vendor of the real time stop sale system shall forward state transaction records in  
49 the real-time stop sale system to the appropriate state agency weekly, and provide real-time  
50 access to the real-time stop sale system information through the system's online portal to law  
51 enforcement in the state as authorized by the agency.

52           (g) This system shall be capable of generating a stop sale alert, which shall be a  
53 notification that completion of the sale would result in the seller or purchaser violating the  
54 quantity limits set forth in this section. The seller shall not complete the sale if the system  
55 generates a stop sale alert. The system shall contain an override function that may be used by a  
56 dispenser of ephedrine or pseudoephedrine who has a reasonable fear of imminent bodily harm if  
57 they do not complete a sale. Each instance in which the override function is utilized shall be  
58 logged by the system.

59           (h) A violation of any provision of this section is a misdemeanor, punishable by fine  
60 only, not to exceed \$1,000 for a first violation of this section, and not to exceed \$5,000 for any  
61 subsequent violation. If a product is dispensed in violation of subsection (a), the owner or  
62 operator of the wholesale or retail establishment dispensing the product shall be in violation of  
63 subsection (a).

64           (i) This section does not apply to a person who obtains the product pursuant to a valid  
65 prescription.

66           (j) This section shall preempt and supersede any local laws or ordinances regulating sales  
67 of products containing pseudoephedrine or ephedrine.