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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 731 Session of  
2019

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INTRODUCED BY TOPPER, DOWLING, HERSHEY, MURT, O'NEAL, SAYLOR,  
WALSH AND WARNER, MARCH 6, 2019

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REFERRED TO COMMITTEE ON HEALTH, MARCH 6, 2019

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AN ACT

1 Amending the act of April 14, 1972 (P.L.233, No.64), entitled  
2 "An act relating to the manufacture, sale and possession of  
3 controlled substances, other drugs, devices and cosmetics;  
4 conferring powers on the courts and the secretary and  
5 Department of Health, and a newly created Pennsylvania Drug,  
6 Device and Cosmetic Board; establishing schedules of  
7 controlled substances; providing penalties; requiring  
8 registration of persons engaged in the drug trade and for the  
9 revocation or suspension of certain licenses and  
10 registrations; and repealing an act," further providing for  
11 definitions and providing for electronic tracking of  
12 hypodermic needles and syringes.

13 The General Assembly of the Commonwealth of Pennsylvania  
14 hereby enacts as follows:

15 Section 1. The definition of "real-time stop-sale system" in  
16 section 2 of the act of April 14, 1972 (P.L.233, No.64), known  
17 as The Controlled Substance, Drug, Device and Cosmetic Act, is  
18 amended to read:

19 Section 2. Definitions.--\* \* \*

20 (b) As used in this act:

21 \* \* \*

22 "Real-time stop-sale system" means a system intended to be  
23 used by law enforcement agencies and pharmacies or other

1 business establishments that:

2 (1) is installed, operated and maintained free of any one-  
3 time or recurring charge to the business establishment or to the  
4 Commonwealth;

5 (2) is able to communicate in real time with similar systems  
6 operated in other states and similar systems containing  
7 information submitted by more than one state;

8 (3) complies with the security policy of the Criminal  
9 Justice Information Services Division of the Federal Bureau of  
10 Investigation or its successor;

11 (4) complies with information exchange standards adopted by  
12 the National Information Exchange Model or its successor;

13 (5) uses a mechanism to prevent the completion of a sale of  
14 a product containing ephedrine or pseudoephedrine that would  
15 violate Federal or State law regarding the purchase of a product  
16 containing those substances; [and]

17 (5.1) uses a mechanism to prevent the completion of a sale  
18 of a hypodermic needle or syringe that would violate Federal or  
19 State law regarding the purchase of the hypodermic needle or  
20 syringe; and

21 (6) is equipped with an override of the mechanism that:

22 (i) may be activated by an employe of a business  
23 establishment; and

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

25 \* \* \*

26 Section 2. The act is amended by adding a section to read:

27 Section 13.9. Electronic Tracking of Hypodermic Needles and  
28 Syringes.--(a) Except as provided under this section, a  
29 retailer may not sell a hypodermic needle or syringe and an  
30 individual may not purchase a hypodermic needle or syringe.

1 (b) A practitioner may sell no more than 100 sterile  
2 hypodermic needles or syringes to an individual who is at least  
3 18 years of age. Hypodermic needles or syringes sold under this  
4 subsection shall be stored at a pharmacy in a manner that limits  
5 access to the hypodermic needles or syringes to a pharmacist  
6 employed at the pharmacy or an individual designated by the  
7 practitioner.

8 (c) At the point of sale, a retailer shall require an  
9 individual purchasing a hypodermic needle or syringe without a  
10 prescription to present a valid government-issued photo  
11 identification or other document considered acceptable  
12 identification under Federal law. The retailer shall record all  
13 of the following:

14 (1) The name and address of the purchaser.

15 (2) The name and quantity of the hypodermic needles or  
16 syringes purchased.

17 (3) The date and time of the purchase.

18 (4) The purchaser's identification type and number, such as  
19 a driver's license state and number. For the purpose of  
20 complying with this paragraph, the retailer shall require that  
21 the purchaser provide his or her signature in a logbook.

22 (d) Before completing a sale under this section, a retailer  
23 shall electronically submit the information recorded under  
24 subsection (c) to the real-time stop-sale system administered by  
25 the department if the real-time stop-sale system is available  
26 without a charge for the retailer to access. Except for  
27 negligence, wantonness, recklessness or deliberate misconduct, a  
28 retailer using the real-time stop-sale system in accordance with  
29 this subsection shall not be civilly liable as a result of any  
30 act or omission in carrying out the duties required by this

1 subsection. A retailer shall be immune from liability to a third  
2 party unless the retailer has violated the provisions of this  
3 subsection in relation to a claim brought for the violation.

4 (e) If a retailer selling a hypodermic needle or syringe to  
5 an individual without a prescription experiences a mechanical or  
6 electronic failure of the real-time stop-sale system and is  
7 unable to comply with subsection (d), the retailer shall  
8 maintain a written log or an alternative electronic  
9 recordkeeping mechanism until the retailer is able to comply  
10 with subsection (d). A retailer that does not have Internet  
11 access to the real-time stop-sale system shall be in compliance  
12 with the requirements under this section if the retailer  
13 maintains a written log or an alternative recordkeeping  
14 mechanism.

15 (f) The vendor of the real-time stop-sale system shall  
16 forward State transaction records under this section in the  
17 real-time stop-sale system to the department weekly and provide  
18 real-time access to the real-time stop-sale system information  
19 through the real-time stop-sale system's online portal to law  
20 enforcement in this Commonwealth as authorized by the  
21 department.

22 (g) The department shall collaborate with the vendor of the  
23 real-time stop-sale system to ensure that the real-time stop-  
24 sale system is capable of generating a stop-sale alert. A stop-  
25 sale alert shall be a notification that completion of the sale  
26 would result in a retailer or purchaser violating the quantity  
27 limits under subsection (b). A retailer shall not complete the  
28 sale if the real-time stop-sale system generates a stop-sale  
29 alert. The department shall collaborate with the vendor of the  
30 real-time stop-sale system to ensure that the real-time stop-

1 sale system contains an override function that may be used by a  
2 retailer who has a reasonable fear of imminent bodily harm if  
3 the retailer does not complete a sale of a hypodermic needle or  
4 syringe. The vendor of the real-time stop-sale system shall log  
5 each instance in which the override function is used by a  
6 retailer.

7 (h) A retailer who violates this section commits a  
8 misdemeanor of the third degree and may only be punishable by  
9 fine.

10 (i) This section shall not apply to an individual who  
11 obtains a hypodermic needle or syringe with a valid  
12 prescription.

13 (j) This section shall supersede any other laws or  
14 regulations governing the sales of hypodermic needles or  
15 syringes without a prescription.

16 Section 3. This act shall take effect in 60 days.