

HOUSE BILL 1574

By McCormick

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 17, Part 4, relative to products containing ephedrine and pseudoephedrine.

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

SECTION 1. Tennessee Code Annotated, Section 39-17-431(c), is amended by deleting the subsection in its entirety and substituting instead the following:

(c)

(1) A pharmacy shall not sell to the same person products containing more than two and four tenths (2.4) grams of ephedrine or pseudoephedrine base, or their salts, isomers or salts of isomers during any period of thirty (30) consecutive days. The limits shall apply to the total amount of base ephedrine and pseudoephedrine contained in the products and not the overall weight of the products.

(2) A person shall not purchase products containing more than two and four tenths (2.4) grams of ephedrine or pseudoephedrine base, or their salts, isomers or salts of isomers during any period of thirty (30) consecutive days. The limits in this subsection (c) apply whether one (1) form of identification required in subsection (d) is used to make the purchase or two (2) or more are used to purchase the products. The limits shall apply to the total amount of base ephedrine and pseudoephedrine contained in the products and not the overall weight of the products.

(3) The limits of subdivisions (c)(1) and (c)(2) shall not apply when:

(A) There is a valid override of the stop sale alert generated by the NPLEEx system, pursuant to subdivisions (j)(2) or (j)(3); or

(B) A person obtains the product or products pursuant to a valid prescription issued by a licensed health care practitioner authorized to prescribe by the laws of the state.

(4) This subsection (c) also shall apply to pharmacist-generated prescription orders of the product pursuant to § 63-10-206. The provision of the patient education and counseling as a part of the practice of pharmacy shall be required when product is issued under this subsection (c).

(5) There shall be no protocol or procedure mandated by any individual or corporate entity that interferes with the pharmacist's professional duty to counsel and evaluate the patient's appropriate pharmaceutical needs and the exercise of the pharmacist's professional judgment as to whether it is appropriate to dispense medication as set forth in subsection (d) or otherwise.

SECTION 2. Tennessee Code Annotated, Section 39-17-431(j), is amended by deleting the subsection in its entirety and substituting instead the following:

(j)

(1) The NPLEEx shall generate a stop sale alert, if completion of a sale would result in the seller or purchaser violating the quantity limits set forth in subdivisions (c)(1) or (c)(2). The system shall contain an override function. Each instance in which the override function is utilized shall be logged by the system.

(2) A pharmacist or pharmacy intern, after counseling with a person seeking to purchase products containing ephedrine or pseudoephedrine base, their salts, isomers or salts of isomers as to the reasons for needing the product pursuant to subsection (d), may override or may direct a person under the pharmacist or pharmacy intern's supervision to override the stop sale alert and sell to an individual purchaser products containing up to two and four tenths (2.4)

additional grams of ephedrine or pseudoephedrine base, or their salts, isomers or salts of isomers during the same period of thirty (30) consecutive days referred to in subsection (c); provided, however, that the total sale of products shall not exceed four and eight tenths (4.8) grams during the same period of thirty (30) consecutive days. The limits shall apply to the total amount of base ephedrine and pseudoephedrine contained in the products and not the overall weight of the products. The limits in this subdivision (j)(2) apply whether one (1) form of identification required in subsection (d) is used to make the purchase or two (2) or more are used to purchase the products. The pharmacist or pharmacy intern shall have an affirmative defense from any civil or criminal liability for directing the override of the stop sale alert. The pharmacist, pharmacy intern, or person directed to override the stop sale alert shall have an affirmative defense from any civil or criminal liability for overriding the stop sale alert.

(3) A pharmacist, pharmacy intern, or person under the supervision of the pharmacist or pharmacy intern may override the stop sale alert if the person has a reasonable fear of imminent bodily harm.

SECTION 3. This act shall take effect July 1, 2014, the public welfare requiring it.