

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 196 Session of 2009

INTRODUCED BY BAKER, MARSICO, PICKETT, DiGIROLAMO, CAUSER, BOYD, BRENNAN, BROOKS, CALTAGIRONE, CLYMER, CREIGHTON, DALLY, DENLINGER, J. EVANS, FLECK, GEIST, GINGRICH, HENNESSEY, KORTZ, MAJOR, MELIO, MENSCH, MILLARD, MOUL, O'NEILL, PETRARCA, QUINN, RAPP, ROCK, SCAVELLO, SIPTROTH, SWANGER, R. TAYLOR, TRUE, VEREB, WATSON, YOUNGBLOOD, HICKERNELL, VULAKOVICH, M. KELLER, BEAR AND KILLION, FEBRUARY 2, 2009

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 2, 2009

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 prohibited acts and penalties.

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

14 Section 1. Section 13(c) of the act of April 14, 1972 (P.L.  
 15 233, No.64), known as The Controlled Substance, Drug, Device and  
 16 Cosmetic Act, amended December 14, 1984 (P.L.988, No.200), is  
 17 amended and subsection (a) is amended by adding a clause to  
 18 read:

19 Section 13. Prohibited Acts; Penalties.--(a) The following  
 20 acts and the causing thereof within the Commonwealth are hereby

1 prohibited:

2 \* \* \*

3 (39) The sale at retail of any product containing ephedrine,  
4 pseudoephedrine, phenylpropanolamine, or any of their salts,  
5 optical isomers or salts of optical isomers as the sole active  
6 ingredient unless one of the following applies:

7 (i) The product is offered for sale behind a counter where  
8 the public is not permitted.

9 (ii) The product is offered for sale within a locked cabinet  
10 that is located in an area of the facility involved to which  
11 customers do have direct access.

12 \* \* \*

13 (c) Any person who violates the provisions of clauses (21),  
14 (22) [and (24)], (24) and (39) of subsection (a) shall be guilty  
15 of a misdemeanor, and shall, on conviction thereof, be punished  
16 only as follows:

17 (1) Upon conviction of the first such offense, he shall be  
18 sentenced to imprisonment not exceeding six months, or to pay a  
19 fine not exceeding ten thousand dollars (\$10,000), or both.

20 (2) Upon conviction of the second and subsequent offense, he  
21 shall be sentenced to imprisonment not exceeding two years, or  
22 to pay a fine not exceeding twenty-five thousand dollars  
23 (\$25,000), or both.

24 \* \* \*

25 Section 2. This act shall take effect in 60 days.