

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1311 Session of  
2005

INTRODUCED BY PICKETT, BAKER, BALDWIN, J. EVANS, GOOD, ARGALL,  
BOYD, CALTAGIRONE, CAPPELLI, CAUSER, CLYMER, CRAHALLA, CRUZ,  
DALLY, DENLINGER, DIGIROLAMO, FABRIZIO, FLEAGLE, GEIST,  
GINGRICH, GRELL, HENNESSEY, HERMAN, HERSHEY, HICKERNELL,  
W. KELLER, KILLION, MAJOR, MARKOSEK, MARSICO, McILHATTAN,  
O'BRIEN, PYLE, RAPP, RUBLEY, SCAVELLO, R. STEVENSON,  
E. Z. TAYLOR, TRUE, TURZAI, WATSON, WHEATLEY, WILT AND  
YOUNGBLOOD, APRIL 11, 2005

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 11, 2005

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  
15 (P.L.233, No.64), known as The Controlled Substance, Drug,  
16 Device and Cosmetic Act, amended December 14, 1984 (P.L.988,  
17 No.200), is amended and subsection (a) is amended by adding  
18 clauses to read:

19 Section 13. Prohibited Acts; Penalties.--(a) The following

acts and the causing thereof within the Commonwealth are hereby prohibited:

\* \* \*

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

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

(ii) The product is offered for sale using any type of antitheft device system, including, but not limited to, an electronic antitheft device system that utilizes a product tag and detection alarm which prevents the theft of the product.

(40) The delivery, in any single over-the-counter retail sale, of more than three packages, or any number of packages that contain a combined total of more than nine grams of any product containing ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers or salts of optical isomers as the sole active ingredient, or in combination with other active ingredients. This clause shall not apply to any of the following:

(i) Pediatric products labeled pursuant to Federal regulation primarily intended for administration to children under 12 years of age according to label instructions.

(ii) Any compound, mixture, or preparation in liquid, liquid capsule, or liquid gel capsule form if ephedrine, pseudoephedrine or phenylpropanolamine is not the only active ingredient.

(iii) Any compound, mixture, or preparation which has been determined by the secretary to be formulated in such a way as to

1 effectively prevent the conversion of the active ingredient into  
2 methamphetamine or its salts or optical isomers or salts of  
3 optical isomers.

4 \* \* \*

5 (c) Any person who violates the provisions of clauses (21),  
6 (22) [and (24)], (24), (39) and (40) of subsection (a) shall be  
7 guilty of a misdemeanor, and shall, on conviction thereof, be  
8 punished only as follows:

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

12 (2) Upon conviction of the second and subsequent offense, he  
13 shall be sentenced to imprisonment not exceeding two years, or  
14 to pay a fine not exceeding twenty-five thousand dollars  
15 (\$25,000), or both.

16 \* \* \*

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