

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 for prohibited acts and penalties; and
12 providing for ephedrine and pseudoephedrine and electronic
13 tracking.

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

16 Section 1. Section 2(b) of the act of April 14, 1972
17 (P.L.233, No.64), known as The Controlled Substance, Drug,
18 Device and Cosmetic Act, is amended by adding definitions to
19 read:

20 Section 2. Definitions.--* * *

21 (b) As used in this act:

22 * * *

23 "National Association of Drug Diversion Investigators

1 (NADDI) " means a nonprofit organization that facilitates
2 cooperation among law enforcement, health care professionals,
3 state regulatory agencies and pharmaceutical manufacturers in
4 the prevention and investigation of prescription drug diversion.

5 "National Precursor Log Exchange (NPLEx) " means a real-time
6 electronic logging system used by pharmacies and law enforcement
7 to track sales of over-the-counter (OTC) cold and allergy
8 medications containing precursors to methamphetamine.

9 * * *

10 Section 2. Section 13(a)(40) and (c) of the act, amended or
11 added November 23, 2010 (P.L.1081, No.107), are amended to read:

12 Section 13. Prohibited Acts; Penalties.--(a) The following
13 acts and the causing thereof within the Commonwealth are hereby
14 prohibited:

15 * * *

16 (40) [The sale at retail of any product containing
17 ephedrine, pseudoephedrine, phenylpropanolamine, or any of their
18 salts, optical isomers or salts of optical isomers as the sole
19 active ingredient unless one of the following applies:

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

22 (ii) The product is offered for sale within a locked cabinet
23 that is located in an area of the facility involved to which
24 customers do have direct access.] (Reserved).

25 * * *

26 (c) Any person who violates the provisions of clauses (21),
27 (22), (24) [, (39) and (40)] and (39) of subsection (a) shall be
28 guilty of a misdemeanor, and shall, on conviction thereof, be
29 punished only as follows:

30 (1) Upon conviction of the first such offense, he shall be

1 sentenced to imprisonment not exceeding six months, or to pay a
2 fine not exceeding ten thousand dollars (\$10,000), or both.

3 (2) Upon conviction of the second and subsequent offense, he
4 shall be sentenced to imprisonment not exceeding two years, or
5 to pay a fine not exceeding twenty-five thousand dollars
6 (\$25,000), or both.

7 * * *

8 Section 3. The act is amended by adding a section to read:

9 Section 13.6. Ephedrine and Pseudoephedrine; Electronic
10 Tracking.--(a) Retailers shall be prohibited from making sales
11 to an individual of, and an individual shall be prohibited from
12 purchasing, ephedrine or pseudoephedrine base, or their salts,
13 isomers or salts of isomers in excess of the following amounts:

14 (1) Three and six-tenths (3.6) grams of ephedrine or
15 pseudoephedrine base contained in a product or combination of
16 products per day.

17 (2) Nine (9) grams of ephedrine or pseudoephedrine base
18 contained in a product or combination of products per thirty-day
19 period.

20 (b) Nonprescription products containing ephedrine or
21 pseudoephedrine shall be maintained behind the counter or in a
22 locked case where the customer does not have direct access.

23 (c) A retailer shall require any person purchasing a
24 nonprescription product that contains ephedrine or
25 pseudoephedrine to present a valid government-issued photo
26 identification, or other document considered acceptable under
27 Federal law for this purpose, at the point of sale. The retailer
28 shall record the following:

29 (1) Name and address of the purchaser.

30 (2) Name and quantity of product purchased.

1 (3) Date and time of purchase.

2 (4) Purchaser identification type and number, such as
3 driver's license state and number, and require the purchaser's
4 signature in a logbook.

5 (d) A retailer shall, before completing a sale under this
6 section, electronically submit the required information to the
7 National Precursor Log Exchange (NPLEx) administered by the
8 National Association of Drug Diversion Investigators (NADDI) or
9 a similar real time electronic logging system that tracks sales
10 of nonprescription medications containing ephedrine or
11 pseudoephedrine that is free of charge to the Commonwealth,
12 retailers and law enforcement.

13 (e) If a retailer selling a nonprescription product
14 containing ephedrine or pseudoephedrine experiences mechanical
15 or electronic failure of the electronic sales tracking system
16 and is unable to comply with the electronic sales tracking
17 requirement, the retailer shall maintain a written log or an
18 alternative electronic recordkeeping mechanism until such time
19 as the retailer is able to comply with the electronic sales
20 tracking requirement. A retailer that does not have Internet
21 access to the electronic sales tracking system is compliant with
22 the requirements of this section if the retailer maintains a
23 written log or an alternative recordkeeping mechanism.

24 (f) NADDI shall forward State transaction records in the
25 NPLEx to the department weekly and provide real-time access to
26 the NPLEx information through the NPLEx online portal to law
27 enforcement in this Commonwealth as authorized by the
28 department.

29 (g) The department shall work with NADDI to ensure that
30 NPLEx shall be capable of generating a stop sale alert, which

1 shall be a notification that completion of the sale would result
2 in the seller or purchaser violating the quantity limits set
3 forth in this section. The seller shall not complete the sale if
4 the electronic system generates a stop sale alert. The
5 department shall work with NADDI to ensure that the system
6 contains an override function that may be used by a retailer of
7 ephedrine or pseudoephedrine who has a reasonable fear of
8 imminent bodily harm if it does not complete a sale. Each
9 instance in which the override function is used shall be logged
10 by the system.

11 (h) A violation of any provision of this section is a
12 misdemeanor, punishable by fine only.

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

15 (j) This section shall supersede any other laws or
16 regulations governing the sales of products containing ephedrine
17 or pseudoephedrine.

18 Section 4. This act shall take effect in 270 days.