

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 946

Short Title: Pseudoephedrine Sales/Electronic Records. (Public)

Sponsors: Senators Tillman; Albertson, Apodaca, Blake, Brown, East, Forrester, Goss, Hunt, Jacumin, Malone, Pittenger, Preston, Queen, and Weinstein.

Referred to: Commerce, Small Business and Entrepreneurship.

March 20, 2007

A BILL TO BE ENTITLED

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2 AN ACT TO REQUIRE THE COMMISSION FOR MENTAL HEALTH,
3 DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES
4 TO ESTABLISH AND MAINTAIN AN ELECTRONIC PURCHASE LOG OF
5 PSEUDOEPHEDRINE SALES AND TO REQUIRE RETAILERS OF
6 PSEUDOEPHEDRINE PRODUCTS TO REPORT CONSUMER SALES OF
7 THOSE PRODUCTS TO THE COMMISSION.

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** G.S. 90-113.52 reads as rewritten:

10 "**§ 90-113.52. Pseudoephedrine: restrictions on sales.**

11 (a) A pseudoephedrine product in the form of a tablet, caplet, or gel cap shall not
12 be offered for retail sale loose in bottles but shall be sold only in blister packages.

13 (b) Pseudoephedrine products shall not be offered for retail sale by self-service,
14 but shall be stored and sold in the following manner: Any pseudoephedrine product in
15 the form of a tablet or caplet containing pseudoephedrine as the sole active ingredient or
16 in combination with other active ingredients shall be stored and sold behind a pharmacy
17 counter.

18 (c) A pseudoephedrine product may be sold at retail without a prescription only
19 to a person at least 18 years of age. The retailer shall require every retail purchaser of a
20 pseudoephedrine product to furnish photo identification. If the retailer has reasonable
21 grounds to believe that the prospective purchaser is under 18 years of age, the retailer
22 shall require the prospective purchaser to furnish photo identification showing the date
23 of birth of the person. ~~The name and address of every purchaser shall be entered in a~~
24 ~~record of disposition of pseudoephedrine products to the consumer on a form approved~~
25 ~~by the Commission. The record of disposition shall also identify each pseudoephedrine~~
26 ~~product purchased, including the number of grams the product contains and the~~
27 ~~purchase date of the transaction.~~ The retailer shall require that every purchaser provide
28 the information set out in subsection (d) of this section and sign the form a form

1 approved by the Commission attesting to the validity of the information. The form
2 approved by the Commission shall be constructed so that it allows for entry of
3 information in electronic format, including electronic signature. The form shall also be
4 constructed and maintained so as to minimize disclosure of personal information to
5 unauthorized persons and shall contain a statement in at least 10-point boldface type at
6 the top of every page substantially similar to the following: "NORTH CAROLINA
7 LAW STRICTLY PROHIBITS THE PURCHASE OF MORE THAN TWO
8 PACKAGES OF CERTAIN PRODUCTS CONTAINING PSEUDOEPHEDRINE (3.6
9 GRAMS TOTAL) PER DAY, AND MORE THAN THREE PACKAGES (9 GRAMS
10 TOTAL) OF CERTAIN PRODUCTS CONTAINING PSEUDOEPHEDRINE WITHIN
11 A 30-DAY PERIOD. BY MY SIGNATURE, I ATTEST THAT THE INFORMATION
12 I HAVE PROVIDED IN CONNECTION WITH THIS TRANSACTION IS TRUE
13 AND CORRECT AND THAT THIS TRANSACTION DOES NOT EXCEED THE
14 PURCHASE RESTRICTIONS. I ACKNOWLEDGE THAT KNOWING AND
15 WILLFUL VIOLATION OF THE PURCHASE RESTRICTIONS OR THE
16 FURNISHING OF FALSE INFORMATION IN CONNECTION THEREWITH MAY
17 SUBJECT ME TO CRIMINAL PENALTIES." If the form attesting to the validity of
18 this information is to be signed by the purchaser in electronic format, the retailer may
19 choose to display in a clear and conspicuous manner the statement on a sign to be
20 placed immediately adjacent to the device on which the electronic signature will be
21 obtained, in lieu of including the full statement in electronic format. If the retailer
22 chooses to display the statement on a sign rather than in electronic format, the retailer
23 shall: (i) instruct the purchaser prior to signing to read the statement; and (ii) include on
24 the form for signature contained in the electronic device a statement substantially
25 similar to the following: "I have read, understand, and agree with the statement just
26 shown to me concerning the requirements under State law pertaining to
27 pseudoephedrine purchases." Display of the sign in this manner shall satisfy the signage
28 requirements of G.S. 90-113.54.

29 ~~(d) A retailer shall maintain a record of disposition of pseudoephedrine products~~
30 ~~to the consumer for a period of two years from the date of each transaction. A~~

31 A retailer shall maintain an electronic record of disposition of pseudoephedrine
32 products to the consumer. The record shall include all of the following information and
33 shall be entered on a form approved by the Commission: (i) the date of the transaction;
34 (ii) the name, date of birth, and address of the person making the purchase; (iii) the type
35 of identification provided by the purchaser, including the identification number and the
36 issuing State or agency; and (iv) the amount and name of the compound, mixture, or
37 preparation being purchased. The retailer shall electronically submit in real time the
38 purchase information to the purchase log maintained by the Commission. The retailer
39 shall maintain the electronic record of each transaction for a period of two years from
40 the date of transaction. The retailer's electronic record shall also be readily available
41 within 48 hours of the time of the transaction for inspection by an authorized official of
42 a federal, State, or local law enforcement agency. The records maintained by a retailer
43 are privileged information and are not public records but are for the exclusive use of the
44 retailer and law enforcement. The retailer shall retain the record of each transaction for

1 a period of two years from the date of transaction but may destroy the information after
2 two years from the date of the ~~transactions-transaction~~.

3 (e) This section does not apply to any pseudoephedrine product that is in the
4 form of a liquid, liquid capsule, gel capsule, or pediatric product labeled pursuant to
5 federal regulation primarily intended for administration to children under 12 years of
6 age according to label instruction, except as to those specific products for which the
7 Commission issues an order pursuant to G.S. 90-113.58 subjecting the product to
8 requirements under this Article."

9 **SECTION 2.** Chapter 90 of the General Statutes is amended by adding a
10 new section to read:

11 "**§ 90-113.54. Commission to establish and maintain electronic purchase log.**

12 The Commission shall establish and maintain an electronic purchase log that shall be
13 capable of checking compliance by retailers and consumers of pseudoephedrine
14 products with all State, local, and federal laws regarding the purchase and sale of
15 pseudoephedrine products. The electronic purchase log shall be capable of interfacing
16 with electronic purchase logs of other states regarding pseudoephedrine product sales to
17 ensure comprehensive compliance. The log shall be kept for a period of two years and
18 shall also be subject to random and warrantless inspection by city, county, or State law
19 enforcement officers."

20 **SECTION 3.** This act becomes effective October 1, 2007.