

CHAPTER 175  
FORMERLY  
HOUSE BILL NO. 130

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO REGULATION OF MANUFACTURE, DISTRIBUTION AND DISPENSING OF CONTROLLED SUBSTANCES.

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

Section 1. Amend §4740, Title 16 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§4740. Sale of pseudoephedrine and ephedrine.

(a) Beginning January 1, 2014, before completing a sale of an over-the-counter ~~if any~~ material, compound, mixture, or preparation containing any detectable quantity of pseudoephedrine or ephedrine, its salts or optical isomers, or salts of optical isomers a pharmacy or retailer shall electronically submit the information required pursuant to subsection (b) of this section to the National Precursor Log Exchange system ("NPLEX") administered by the National Association of Drug Diversion Investigators; provided that the National Precursor Log Exchange is available to pharmacies or retailers in the State without a charge for accessing the system. The pharmacy or retailer shall not complete the sale if the NPLEX system generates a stop sale alert. is dispensed, offered for sale, sold or distributed. The system shall contain an override function that may be used by an agent of a retail establishment who is dispensing the drug product and who has a reasonable fear of imminent bodily harm if the transaction is not completed. The system shall create a record of each use of the override mechanism.

(b) The pharmacy or retailer shall maintain a written or electronic log of required information for each sale of a nonprescription product containing pseudoephedrine or ephedrine, including:

- (1) The date and time of any transaction;
- (2) The name, address, and date of birth of the person purchasing or obtaining the substance;
- (3) The type of government-issued identification provided by the person purchasing or obtaining the substance and identification number;
- (4) The government agency issuing the identification used; and
- (5) The name of the compound, mixture, or preparation and the amount.

The pharmacy or retailer shall require every person purchasing or obtaining the substance to sign a written or electronic log attesting to the validity of the information.

(c) If a pharmacy or retailer selling an over-the-counter product containing the substance experiences mechanical or electronic failure of the electronic tracking system and is unable to comply with the electronic sales tracking requirement under this section, the pharmacy or retailer shall maintain a written log or an alternative electronic record keeping mechanism until such time as the pharmacy or retailer is able to comply with the electronic sales tracking requirement.

~~(d)~~ Any material, compound, mixture, or preparation as defined in subsection (a) ~~it~~ shall be dispensed, offered for sale, sold, or distributed only from behind a checkout counter, pharmacy counter, or in a locked storage container where the public is not permitted.

~~(e)~~ A licensed pharmacist, sales clerk, or pharmacy technician shall require that any person purchasing, receiving, or otherwise acquiring any such substance shall be age 18 or older, produce a photo identification showing the date of birth of the person, and sign a written log or receipt showing the date of the transaction, name of the person, and the amount of such substance. The written log or electronic log receipt shall be retained for at least 12 months.

~~(f)~~ No person, other than pharmacy or retail establishment, shall purchase, receive, or otherwise acquire more than 9 grams of any such substance within any 30-day period.

~~(g)~~ A violation of this section is a class A misdemeanor.

(h) The National Association of Drug Diversion Investigators shall forward Delaware transaction records in the National Precursor Log Exchange to the Drug Diversion Unit of the Delaware State Police weekly and provide real-time access to the National Precursor Log Exchange information through the National Precursor Log

Exchange online portal to law enforcement in the State as authorized by the State Police; provided that the State Police execute a memorandum of understanding with the National Association of Drug Diversion Investigators governing access to the information; provided further that the State Police shall establish the electronic tracking system in conjunction with the State's existing narcotics tracking system no later than January 1, 2014.

Approved August 27, 2013