

By: Representative Roberson

To: Drug Policy

HOUSE BILL NO. 393

1 AN ACT TO AMEND SECTION 73-21-124, MISSISSIPPI CODE OF 1972,
2 TO EXTEND THE DATE OF THE REPEALER ON THE STATUTE AUTHORIZING THE
3 SALE AND PURCHASE IN A REGISTERED PHARMACY, WITHOUT A
4 PRESCRIPTION, OF CERTAIN PRODUCTS CONTAINING LIMITED AMOUNTS OF
5 PSEUDOEPHEDRINE OR EPHEDRINE; AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 **SECTION 1.** Section 73-21-124, Mississippi Code of 1972, is
8 amended as follows:

9 73-21-124. (1) (a) It is lawful for a pharmacy registered
10 under Section 73-21-105 to sell or distribute to a person, without
11 a prescription, products containing not more than three and six
12 tenths (3.6) grams per day and not more than seven and two tenths
13 (7.2) grams per thirty-day period of pseudoephedrine or ephedrine,
14 and it is lawful for a person to purchase products containing
15 those ingredients from a registered pharmacy without a
16 prescription.

17 (b) All products authorized under this subsection (1)
18 must be stored by a pharmacy by placing the products behind a



19 counter in an area within the pharmacy where the public is not
20 permitted.

21 (c) Any products authorized under this subsection (1)
22 sold by a pharmacy must be sold by an individual licensed as a
23 pharmacist or by an employee of the pharmacy under the direct
24 supervision and control of a licensed pharmacist.

25 (d) No pharmacy may sell or distribute, and no person
26 may purchase, more products than allowed under this section unless
27 by valid prescription. It is not a defense in a prosecution under
28 this section that no money was exchanged during a transaction that
29 would otherwise be unlawful under this section.

30 (2) A pharmacy selling products in a manner authorized under
31 subsection (1) of this section must:

32 (a) Use the National Precursor Log Exchange (NPLEx)
33 system administered by the National Association of Drug Diversion
34 Investigators, provided that the system is available to pharmacies
35 or retailers in the state without a charge for accessing the NPLEx
36 system, before completing the over-the-counter sale of each
37 product authorized under subsection (1) of this section. Before
38 completing a sale of an over-the-counter material, compound,
39 mixture, or preparation containing any detectable quantity of
40 pseudoephedrine or ephedrine, its salts or optical isomers, or
41 salts of optical isomers a pharmacy or retailer shall
42 electronically submit the information required under subsection
43 (b) of this subsection (2) to the NPLEx system. The pharmacy or



44 retailer shall not complete the sale if the NPLEx system generates
45 a stop-sale alert. The system shall contain an override function
46 that may be used by an agent of a retail establishment who is
47 dispensing the drug product, and who has a reasonable fear of
48 imminent bodily harm if the transaction is not completed. The
49 system shall create a record of each use of the override
50 mechanism.

51 (b) Maintain an electronic log of required information
52 for each transaction, and require the purchaser of the package to
53 be at least eighteen (18) years of age and provide a valid,
54 unsuspended driver's license or nondriver identification card
55 issued by this state or another state, a United States Uniformed
56 Services Privilege and Identification Card, or a United States or
57 foreign passport, and to sign a written or electronic log
58 attesting to the validity of the information provided for each
59 transaction. The record of each transaction must include the
60 information from the identification card as well as the type of
61 and government entity issuing the identification card used, the
62 name, date of birth, and current address of the purchaser, the
63 date and time of the sale, the name of the compound, mixture, or
64 preparation being sold, and the total amount, in grams or
65 milligrams, of pseudoephedrine or ephedrine being sold.

66 (c) Maintain a written log or an alternative electronic
67 recordkeeping mechanism if a pharmacy or retailer experiences
68 mechanical or electronic failure of the required electronic



69 tracking system until such time as the pharmacy or retailer is
70 able to comply with the electronic sales-tracking requirement. No
71 person shall purchase, receive or otherwise acquire more than
72 three and six-tenths (3.6) grams per day or seven and two-tenths
73 (7.2) grams of pseudoephedrine or ephedrine within any thirty-day
74 period.

75 (3) The National Association of Drug Diversion Investigators
76 shall provide real-time access to the NPLeX information through
77 the NPLeX online portal to law enforcement in the state.

78 (4) (a) Pseudoephedrine and ephedrine products dispensed
79 pursuant to a legitimate prescription are exempt from this
80 section.

81 (b) The amounts of pseudoephedrine and ephedrine
82 products dispensed to a person pursuant to a legitimate
83 prescription shall not be considered under subsection (1)(a) of
84 this section.

85 (5) A violation of this section is a misdemeanor and is
86 punishable as follows:

87 (a) For a first offense, by a fine not to exceed One
88 Thousand Dollars (\$1,000.00).

89 (b) For a second or subsequent offense, by a fine not
90 to exceed Ten Thousand Dollars (\$10,000.00).

91 (6) A pharmacist who is the general owner or operator of an
92 establishment where pseudoephedrine and ephedrine products are
93 available for sale shall not be penalized under this section for



94 the conduct of an employee if the retailer documents that an
95 employee training program approved by the Mississippi Board of
96 Pharmacy was conducted by the pharmacist. The Mississippi Board
97 of Pharmacy shall develop or approve all training programs for
98 pharmacy employees.

99 (7) A person who resides in a state that requires a
100 prescription for the purchase of pseudoephedrine or ephedrine, or
101 who presents identification from a state that requires a
102 prescription for the purchase of pseudoephedrine or ephedrine, may
103 purchase those products only upon presentation of a valid
104 prescription for the pseudoephedrine or ephedrine.

105 (8) This section shall stand repealed on January 1, * * *
106 2027.

107 **SECTION 2.** This act shall take effect and be in force from
108 and after July 1, 2023.

