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Senate Bill No. 440

(By Senators Foster, Unger and Miller)

[Introduced February 7, 2011; referred to the Committee on Health and Human Resources; and then to the Committee on the Judiciary.]

A BILL to amend and reenact §60A-10-7 of the Code of West Virginia, 1931, as amended, relating to the Methamphetamine Laboratory Eradication Act; and requiring a prescription for drug products that contain as an active ingredient ephedrine, pseudoephedrine, phenylpropanolamine or other chemical precursors of methamphetamine.

Be it enacted by the Legislature of West Virginia:

That §60A-10-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 10. METHAMPHETAMINE LABORATORY ERADICATION ACT.

§60A-10-7. Restricted products; rule-making authority.

~~(a) On or before July 1, 2005,~~ The Board of Pharmacy shall promulgate emergency and legislative rules pursuant to the provision of article three, chapter twenty-nine-a of this code to implement a program wherein the Board of Pharmacy ~~shall consult~~

1 consults with the Superintendent of the State Police in identifying
2 drug products which are a designated precursor, in addition to
3 those that contain as ~~their single~~ an active ingredient ephedrine,
4 pseudoephedrine or phenylpropanolamine, that are commonly being
5 used in the production and distribution of methamphetamine. Those
6 drug products which the superintendent of the State Police have
7 demonstrated by empirical evidence are commonly used in the
8 manufacture of methamphetamine shall be added to a supplemental
9 list and ~~shall be~~ are subject to all of the restrictions of this
10 article. ~~These~~ The rules established pursuant to this section
11 shall include ~~(1)~~ a process whereby pharmacies are made aware of
12 all drug products that contain as ~~their single~~ an active ingredient
13 ephedrine, pseudoephedrine and phenylpropanolamine that will be
14 listed as a Schedule V III substance. ~~and must be sold, transferred~~
15 ~~or dispensed from behind a pharmacy counter;~~

16 ~~(2) A process whereby pharmacies and retail establishments are~~
17 ~~made aware of additional drug products added to Schedule V that are~~
18 ~~required to be placed behind the pharmacy counter for sale,~~
19 ~~transfer or distribution can be periodically reviewed and updated.~~

20 ~~(b) At any time after July 1, 2005, the Board of Pharmacy,~~
21 ~~upon the recommendation of the superintendent of the State Police,~~
22 ~~shall promulgate emergency and legislative rules pursuant to the~~
23 ~~provision of article three, chapter twenty-nine a of this code to~~
24 ~~implement an updated supplemental list of products containing the~~
25 ~~controlled substances ephedrine, pseudoephedrine or~~

1 ~~phenylpropanolamine as an active ingredient or any other drug used~~
2 ~~as a precursor in the manufacture of methamphetamine, which the~~
3 ~~superintendent of the State Police has demonstrated by empirical~~
4 ~~evidence is being used in the manufacture of methamphetamine. This~~
5 ~~listing process shall comport with the requirements of subsection~~
6 ~~(a) of this section.~~

NOTE: The purpose of this bill is to add language to West Virginia Code §60A-10-7 requiring the issuance of a lawful prescription for dispensing drug products containing as an active ingredient ephedrine, pseudoephedrine, phenylpropanolamine and other chemical precursors of methamphetamine.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.