

HOUSE BILL 1171

E1, J2

4lr0657
CF SB 944

By: **Delegates Williams, Embry, Fair, Love, Martinez, Palakovich Carr, Roberts, Ruff, Ruth, Simpson, Terrasa, Turner, White Holland, Woods, ~~and Young~~ Young, Pena-Melnyk, Cullison, Alston, Bagnall, Bhandari, Guzzone, Hill, Hutchinson, S. Johnson, Kaiser, Kerr, R. Lewis, Lopez, Rosenberg, Szeliga, and Taveras**

Introduced and read first time: February 7, 2024
Assigned to: Health and Government Operations

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 4, 2024

CHAPTER _____

1 AN ACT concerning

2 **Nonprescription Drugs and Devices – Provision by Registered Nurses and Sale**
3 **of Contraceptives Through Automatic Devices**

4 FOR the purpose of prohibiting the sale of natural membrane condoms, rather than all
5 nonlatex condoms, through a vending machine or other automatic device; repealing
6 the prohibition on a criminal penalty related to the sale of certain contraceptives by
7 means of a vending machine or other automatic device; authorizing registered nurses
8 to provide, without a prescription, nonprescription drugs and devices in a local
9 health department under certain circumstances; and generally relating to
10 nonprescription drugs and devices.

11 BY repealing
12 Article – Criminal Law
13 Section 10–104 ~~and 10–105~~
14 Annotated Code of Maryland
15 (2021 Replacement Volume and 2023 Supplement)

16 BY repealing and reenacting, without amendments,
17 Article – Health – General
18 Section 3–403(a)(1)
19 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2023 Replacement Volume)

2 BY repealing and reenacting, with amendments,
3 Article – Health – General
4 Section 3–403(b)
5 Annotated Code of Maryland
6 (2023 Replacement Volume)

7 BY adding to
8 Article – Health – General
9 Section 21–228
10 Annotated Code of Maryland
11 (2023 Replacement Volume)

12 BY repealing and reenacting, with amendments,
13 Article – Health Occupations
14 Section 8–512
15 Annotated Code of Maryland
16 (2021 Replacement Volume and 2023 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
18 That the Laws of Maryland read as follows:

19 **Article – Criminal Law**

20 [10–104.

21 (a) A person may not sell or offer for sale a nonlatex condom by means of a vending
22 machine or other automatic device.

23 (b) (1) A person who violates this section is guilty of a misdemeanor and on
24 conviction is subject to a fine not exceeding \$1,000 for each violation.

25 (2) Each vending machine or other automatic device in violation of this
26 section is a separate violation.]

27 ~~[10–105.~~

28 ~~(a) A person may not sell or offer for sale a contraceptive or a contraceptive device,~~
29 ~~whether or not advertised as a prophylactic, by means of a vending machine or other~~
30 ~~automatic device at a kindergarten, nursery school, or elementary or secondary school.~~

31 ~~(b) (1) A person who violates this section is guilty of a misdemeanor and on~~
32 ~~conviction is subject to a fine not exceeding \$1,000 for each violation.~~

33 ~~(2) Each vending machine or other automatic device in a school is a~~
34 ~~separate violation.]~~

1 **Article – Health – General**

2 3–403.

3 (a) (1) There is a Committee on Registered Nurses Personally Preparing and
4 Dispensing Drugs and Devices in Local Health Departments.

5 (b) The Committee shall:

6 (1) Develop and approve a formulary for use by registered nurses **THAT**
7 **INCLUDES ALL NONPRESCRIPTION CONTRACEPTIVE DRUGS AND DEVICES**
8 **APPROVED BY THE U.S. FOOD AND DRUG ADMINISTRATION FOR**
9 **OVER-THE-COUNTER USE**; and

10 (2) Annually review the formulary to ensure compliance with current
11 prescribing standards.

12 **21–228.**

13 **A PERSON MAY NOT SELL OR OFFER FOR SALE A NATURAL MEMBRANE**
14 **CONDOM BY MEANS OF A VENDING MACHINE OR OTHER AUTOMATIC DEVICE.**

15 **Article – Health Occupations**

16 8–512.

17 (a) (1) In this section the following words have the meanings indicated.

18 (2) “Authorized prescriber” means a licensed registered nurse, licensed
19 dentist, licensed physician, licensed physician’s assistant, licensed podiatrist, or other
20 individual authorized by law to prescribe prescription or nonprescription drugs or devices.

21 (3) (i) “Device” means an item used in the diagnosis, treatment, or
22 prevention of disease.

23 (ii) “Device” does not include:

24 1. Surgical or dental instruments;

25 2. Physical therapy equipment;

26 3. X-ray apparatuses; or

27 4. Component parts of or accessories for any of the items
28 described in items 1 through 3 of this subparagraph.

1 (4) (i) “Dispense” means a procedure that results in the receipt of a
2 drug or device by a patient or a patient’s agent.

3 (ii) “Dispense” includes:

4 1. Interpreting an authorized prescriber’s prescription for a
5 drug or device;

6 2. Selecting and labeling the drug or device prescribed;

7 3. Measuring and packaging the drug or device in accordance
8 with State and federal law; and

9 4. Documenting the transaction in the patient’s medical
10 record.

11 (5) “Drug” means, unless the context requires otherwise, a prescription or
12 nonprescription drug.

13 (6) “Formulary” means a list of drugs and devices.

14 (7) “Nonprescription drug **OR DEVICE**” means a drug **OR DEVICE** that:

15 (i) May be sold without a prescription; and

16 (ii) Is labeled for use by a consumer in accordance with State and
17 federal law.

18 (8) “Personally prepare and dispense” means to:

19 (i) Physically prepare a prescription;

20 (ii) Perform a final check of the prescription before dispensing it to a
21 patient; and

22 (iii) Not delegate any step of the dispensing process.

23 (9) “Prescription drug” means a drug that, under § 21–220 of the Health –
24 General Article, may be dispensed only on the prescription of an authorized prescriber.

25 (b) If a registered nurse complies with the requirements of this section, the
26 registered nurse may personally prepare and dispense drugs and devices **OR PROVIDE,**
27 **WITHOUT A PRESCRIPTION, NONPRESCRIPTION DRUGS AND DEVICES** in a local health
28 department:

1 (1) In accordance with the Overdose Response Program under Title 13,
2 Subtitle 31 of the Health – General Article or the Expedited Partner Therapy Pilot Program
3 under § 18–214.1 of the Health – General Article; or

4 (2) To patients in need of communicable disease, alcohol and drug abuse,
5 family planning, or reproductive health services.

6 (c) A registered nurse may personally prepare and dispense drugs and devices
7 **OR PROVIDE, WITHOUT A PRESCRIPTION, NONPRESCRIPTION DRUGS AND DEVICES**
8 if the registered nurse:

9 (1) Complies with the formulary developed and approved under § 3–403(b)
10 of the Health – General Article;

11 (2) Has successfully completed a training program administered by the
12 Department in accordance with § 3–405 of the Health – General Article;

13 (3) Maintains the patient’s health record in a manner that ensures the
14 confidentiality of the patient’s drug and device medication record in accordance with State
15 and federal laws;

16 (4) Complies with drug and device storage and inventory procedures in
17 accordance with Department policy; and

18 (5) **[Has] FOR A PRESCRIPTION DRUG OR DEVICE, HAS** received a
19 prescription from an authorized prescriber employed at a local health department.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2024.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.