



CONSUMER
HEALTHCARE
PRODUCTS
ASSOCIATION

Taking healthcare personally.

February 20, 2023

Delegate C.T. Wilson, Chair
Delegate Brian M. Crosby, Vice Chair
Economic Matters Committee
House Office Building, Room 231
Annapolis, MD 21401

Re: HB 807 - Online and Biometric Data Privacy - Oppose

Dear Chair Wilson,

On behalf of the Consumer Healthcare Products Association (CHPA), the Washington, D.C. based national trade organization representing the leading manufacturers of over-the-counter (OTC) medicines, dietary supplements, and consumer medical devices, I'm writing to express opposition to HB 807 as it is currently drafted. While we are not opposed to the bill's goal of providing consumers with more control over their personal data, we do have concerns with how the legislation interacts with existing federal laws related to controlled substances. Considering this potential conflict between laws, we oppose HB 807 unless amended to account for existing federal requirements.

Controlled Substances Act

The Comprehensive Drug Abuse Prevention and Control Act, commonly known as the Controlled Substances Act (CSA), was passed by Congress in 1970 and establishes a federal policy to regulate the manufacturing, distribution, and use of regulated substances. To comply with 21 U.S.C. Section 830 of the Act, regulated "persons" who engage in a transaction involving a listed chemical (like sellers of allergy drug products containing ephedrine or pseudoephedrine) must collect and keep identifiable private records of these transactions. HB 807, however, does not exempt these transactions from its privacy requirements.

Amendment Recommendation

To avoid potential conflict with already existing federal law, CHPA recommends the following amendment in red be added to page 11 within Section 14-4503, beginning on line 17:

(B) THE FOLLOWING INFORMATION AND DATA IS EXEMPT FROM THIS
SUBTITLE:

(1) PROTECTED HEALTH INFORMATION UNDER THE FEDERAL
HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996;

(2) PATIENT-IDENTIFYING INFORMATION FOR PURPOSES OF 42
U.S.C. § 290dd-2;

(3) IDENTIFIABLE PRIVATE INFORMATION THAT IS USED FOR PURPOSES OF
THE FEDERAL POLICY UNDER THE CONTROLLED SUBSTANCES ACT SECTION ON THE
REGULATION OF LISTED CHEMICALS 21 U.S.C. SEC. 830;

Conclusion

CHPA and its members are committed to the privacy of data collected about our customers. We applaud the Economic Matters Committee for taking on this important issue, but unfortunately, we cannot support the legislation in its current form. We look forward to continued dialogue with the hope we can come to an equitable resolution.

Respectfully submitted,

A handwritten signature in blue ink that reads "Carlos I. Gutiérrez". The signature is fluid and cursive, with the first name "Carlos" and the last name "Gutiérrez" clearly legible.

Carlos I. Gutiérrez
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cc: Members of the Economic Matters Committee
The Honorable Delegate Sara Love