SYNOPSIS
Prohibits resale of non-prescription diabetes test devices by pharmacists.

CURRENT VERSION OF TEXT
As amended on January 9, 2020 by the Senate pursuant to the Governor's recommendations.
AN ACT concerning non-prescription diabetes test devices and
supplementing Title 45 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State
of New Jersey:

1. As used in this act:
“Board” means the New Jersey State Board of Pharmacy
established pursuant to P.L.2003, c.280 (C.45:14-40 et seq.)
“Non-prescription diabetes test device” means a glucose meter or
test strip for use in the treatment of prediabetic or diabetic
individuals that may be sold without a prescription and that is
labeled for use by the consumer in accordance with applicable State
and federal law.

2. A manufacturer of a non-prescription diabetes test
device that is distributed within New Jersey shall make the names
of its authorized distributors available on its Internet Web site
and shall provide the board with the names of its authorized
distributors. Within 30 days of receiving that information from a
manufacturer of a non-prescription diabetes test device, the board
shall post the names of authorized distributors of non-prescription
diabetes test devices on the board’s Internet Web site. A
manufacturer of a non-prescription diabetes test device shall, within
30 days of making a change to its authorized distributors, update its
Internet Web site and inform the board of to reflect any changes to its authorized distributors. Within 30 days of
receiving notice of any change from a manufacturer of a non-
precription diabetes test device, the board shall post the updated
list of the manufacturer’s authorized distributors on its Internet Web
site.

b. It shall be an unlawful practice and a violation of P.L.1960,
c.39 (C.56:8-1 et seq.) for any retail mercantile establishment to sell
or offer to sell to a consumer in New Jersey a non-prescription
diabetes test device that was not acquired directly from the
manufacturer or from one of the manufacturer’s authorized
distributors, unless the device is plainly marked by a stamp, tag,
label or sign that is either affixed to the device or located at the
point of sale disclosing that the device was not acquired directly
from the manufacturer or from an authorized distributor of the
manufacturer.

c. It shall be an unlawful practice and a violation of P.L.1960,
c.39 (C.56:8-1 et seq.) for any retail mercantile establishment to sell

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
Senate amendments adopted in accordance with Governor’s
or offer to sell to a consumer in New Jersey a non-prescription diabetes test device that was previously sold and repackaged, unless
the device is plainly marked by a stamp, tag, label or sign that is
either affixed to the device or located at the point of sale disclosing
that the device was previously sold and re-packaged.

d. For the purposes of this section, a “retail mercantile establishment” means any place of business where merchandise is
exposed or offered for sale at retail to members of the public. This
term shall include entities that use the Internet or other electronic
means to expose or offer merchandise for sale at retail to consumers
in New Jersey1.

3. In addition to the responsibilities given to the board pursuant
to the “New Jersey Pharmacy Practice Act,” P.L.2003, c.280
(C.45:14-40 et seq.), the board shall require that a pharmacy that
dispenses non-prescription diabetes test devices pursuant to
prescriptions shall retain records of its acquisition, inventory, and sale
of those non-prescription diabetes test devices. The records shall be
maintained in a manner prescribed by the board by regulation, and
shall be retained for a period of not less than three years. The board
shall have authority to inspect records at all reasonable hours.

4. The board may embargo any non-prescription diabetes test
device that a board inspector finds or has probable cause to believe
was not purchased either directly from the manufacturer or from the
non-prescription diabetes test device manufacturer’s authorized
distributors as identified in section 2 of P.L. , c. (C. )
(pending before the Legislature as this bill). Procedures for
embargoing of such devices shall be established by the board by
regulation pursuant to the “Administrative Procedure Act,”
P.L.1968, c.410 (C.52:14B-1 et seq.), consistent with the
requirements of subsection c. of section 9 of P.L.2003, c.280
(C.45:14-48).]1

5. A pharmacist who [submits a reimbursement claim
for] sells, offers for sale, or otherwise dispenses to the public a
non-prescription diabetes test device to a health insurance carrier,
pharmacy benefit manager, government agency, or other third-party
payer when] that the pharmacist knew or reasonably
should have known that the pharmacy did not purchase the
diabetes test device was not acquired by the pharmacy either
directly from the manufacturer or from one of the manufacturer’s
authorized distributors identified pursuant to section 2 of P.L. ,
c. (C. ) (pending before the Legislature as this bill) shall be
subject to disciplinary action pursuant to section 8 of P.L.1978, c.73
(C.45:1-21).
The New Jersey State Board of Pharmacy shall, in accordance with the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), adopt any rules and regulations as the board deems necessary to carry out the provisions of this act.

This act shall take effect on the first day of the seventh month next following the date of enactment.