

Sec. 4. Section 692.17, Code 2009, is amended to read as follows:  
692.17 EXCLUSIONS — PURPOSES.

1. Criminal history data in a computer data storage system shall not include arrest or disposition data or custody or adjudication data after the person has been acquitted or the charges dismissed, except that records of acquittals or dismissals by reason of insanity and records of adjudications of mental incompetence to stand trial in cases in which physical or mental injury or an attempt to commit physical or mental injury to another was alleged may be included. Criminal history data shall not include custody or adjudication data, except as necessary for the purpose of administering chapter 692A, after the juvenile has reached twenty-one years of age, unless the juvenile was convicted of or pled guilty to a serious or aggravated misdemeanor or felony between age eighteen and age twenty-one.

2. For the purposes of this section, “criminal history data” includes the following:

1. a. In the case of an adult, information maintained by any criminal justice agency if the information otherwise meets the definition of criminal history data in section 692.1, except that source documents shall be retained.

2. b. In the case of a juvenile, information maintained by any criminal or juvenile justice agency if the information otherwise meets the definition of criminal history data in section 692.1. In the case of a juvenile, criminal history data and source documents, other than fingerprint records, shall not be retained.

3. Fingerprint cards received that are used to establish a criminal history data record shall be retained in the automated fingerprint identification system when the criminal history data record is expunged.

4. Criminal history data may be collected for management or research purposes.

Approved March 25, 2009

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## CHAPTER 25

### PSEUDOEPHEDRINE PRODUCT SALES

S.F. 237

**AN ACT** relating to pseudoephedrine product sales by pharmacies and retailers, and providing penalties and contingent applicability.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 124.101, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 20A. “Office” means the governor’s office of drug control policy, as referred to in section 80E.1.

Sec. 2. Section 124.212, subsection 4, paragraph c, Code 2009, is amended to read as follows:

c. Pseudoephedrine. A person shall present a government-issued photo identification card when purchasing a pseudoephedrine product from a pharmacy. A person shall not purchase more than seven thousand five hundred milligrams of pseudoephedrine, either separately or collectively, within a thirty-day period a quantity of pseudoephedrine in violation of section

124.213 from a pharmacy, unless the person has a prescription for a pseudoephedrine product in excess of that quantity. A pseudoephedrine product not excepted from this schedule shall be sold by a pharmacy as provided in section 124.212A.

Sec. 3. NEW SECTION. 124.212A PHARMACY PSEUDOEPHEDRINE SALE — RESTRICTIONS — RECORDS — CONTINGENT APPLICABILITY.

1. A pharmacy, an employee of a pharmacy, or a licensed pharmacist shall do the following:
  - a. Provide for the sale of a pseudoephedrine product in a locked cabinet or behind the sales counter where the public is unable to reach the product and where the public is not permitted.
  - b. Require the purchaser to present a governmental-issued<sup>1</sup> photo identification card identifying the purchaser prior to purchasing a pseudoephedrine product.
  - c. Provide an electronic logbook for purchasers of pseudoephedrine products to sign.
  - d. Require the purchaser to sign the electronic logbook. If the electronic logbook is not available, require a signature that is associated with a transaction number.
  - e. Enter the purchaser's name, address, date of purchase, time of purchase, name of the pseudoephedrine product purchased, and the quantity sold in the electronic logbook. If the electronic logbook is unavailable, an alternative record shall be kept that complies with the rules adopted by both the office and the board.
  - f. Determine that the signature in the electronic logbook corresponds with the name on the government-issued photo identification card.
  - g. Provide notice that a purchaser entering a false statement or misrepresentation in the electronic logbook may subject the purchaser to criminal penalties under 18 U.S.C. § 1001.
  - h. Keep electronic logbook records and any other records obtained from pseudoephedrine purchases if the electronic logbook is unavailable for twenty-four months from the date of the last entry.
  - i. Disclose electronic logbook information and any other pseudoephedrine purchase records as provided by state and federal law.
  - j. Comply with training requirements pursuant to federal law.
2. This section is not applicable unless sufficient funding is received to implement and maintain the statewide real-time central repository and the office establishes the statewide real-time central repository. However, subsection 1, paragraph "h" is applicable upon the effective date of this Act.

Sec. 4. NEW SECTION. 124.212B PSEUDOEPHEDRINE SALES — TRACKING — PENALTY — CONTINGENT APPLICABILITY.

1. The office shall establish a real-time electronic repository to monitor and control the sale of schedule V products containing any detectable amount of pseudoephedrine, its salts, or optical isomers, or salts of optical isomers; ephedrine; or phenylpropanolamine. A pharmacy dispensing such products shall report all such sales electronically to a central repository under the control of the office.
2. The information collected in the central repository is confidential unless otherwise ordered by a court, or released by the lawful custodian of the records pursuant to state or federal law.
3. A pharmacy, an employee of a pharmacy, or a licensed pharmacist shall not be provided access to the stored information in the electronic central repository. However, a pharmacy, an employee of a pharmacy, or a licensed pharmacist shall be provided access to the stored information for the limited purpose of determining what sales have been made by the pharmacy. A pharmacy, an employee of a pharmacy, or a licensed pharmacist shall not be given the obligation or duty to view the stored information.
4. A pharmacy, or an employee of a pharmacy, or a licensed pharmacist shall not be given the obligation or duty to seek information from the central repository if the real-time electronic logbook becomes unavailable for use.
5. If the electronic logbook is unavailable for use, a paper record for each sale shall be maintained including the purchaser's signature. Any paper record maintained by the pharmacy

<sup>1</sup> According to enrolled Act; the phrase "government-issued" probably intended

shall be provided to the office for inclusion in the electronic real-time central repository as soon as practicable.

6. A pharmacy, or an employee of a pharmacy, or a licensed pharmacist shall not be liable, if acting reasonably and in good faith, to any person for any claim which may arise when reporting sales of products enumerated in subsection 1 to the central repository.

7. A person who discloses information stored in the central repository in violation of this section commits a simple misdemeanor.

8. Both the office and the board shall adopt rules to administer this section.

9. The office and the board shall report to the board on an annual basis, beginning January 1, 2010, regarding the repository, including the effectiveness of the repository in discovering unlawful sales of pseudoephedrine products.

10. This section is not applicable unless sufficient funding is received to implement and maintain this section and the office establishes the statewide real-time central repository.

Sec. 5. NEW SECTION. 124.212C PSEUDOEPHEDRINE ADVISORY COUNCIL — ELECTRONIC MONITORING.

1. The office shall establish a pseudoephedrine advisory council to provide input and advise the office regarding the implementation and maintenance of the statewide real-time central repository established under section 124.212B to monitor sales of pseudoephedrine. The office shall specify the duties, responsibilities, and other related matters of the advisory council.

2. a. The council shall consist of four licensed pharmacists. The office shall solicit recommendations for membership on the council from the Iowa pharmacy association and Iowa retail federation, and shall appoint members from the recommendations. The council shall include a member from an independent pharmacy, a member from a regional chain pharmacy, and a member from a national chain pharmacy. The license of any member must be current and not subject to disciplinary sanctions.

b. The council shall also consist of four members of the general assembly serving as ex officio, nonvoting members, one representative to be appointed by the speaker of the house of representatives, one representative to be appointed by the minority leader of the house of representatives, one senator to be appointed by the majority leader of the senate after consultation with the president of the senate, and one senator to be appointed by the minority leader of the senate.

3. The council may make recommendations regarding the implementation and maintenance of the statewide real-time central repository monitoring system under section 124.212B.

4. The council shall do the following:

a. Assist the office in implementing and maintaining the statewide real-time central repository monitoring system.

b. Assist the office in developing utilization guidance related to the statewide real-time central repository monitoring system and disseminating such guidance.

c. Assist the office in developing guidelines to ensure patient confidentiality and the integrity of the relationship established by the patient and the patient's health care provider.

5. All members of the council shall receive actual and necessary expenses incurred in the performance of their duties.

Sec. 6. Section 124.213, Code 2009, is amended by striking the section and inserting in lieu thereof the following:

124.213 PSEUDOEPHEDRINE PURCHASE RESTRICTIONS FROM PHARMACY OR RETAILER — PENALTY.

1. A person shall not purchase more than three thousand six hundred milligrams of pseudoephedrine, either separately or collectively, within a twenty-four-hour period from a pharmacy, or more than one package of a product containing pseudoephedrine within a twenty-four hour period from a retailer in violation of section 126.23A.

2. A person shall not purchase more than seven thousand five hundred milligrams of

pseudoephedrine, either separately or collectively, within a thirty-day period from a pharmacy or from a retailer in violation of section 126.23A.

3. A person who violates this section commits a serious misdemeanor.

Sec. 7. Section 126.23A, subsection 1, paragraph a, subparagraph (1), Code 2009, is amended by striking the subparagraph and inserting in lieu thereof the following:

(1) Sell more than seven thousand five hundred milligrams of pseudoephedrine to the same person within a thirty-day period.

Sec. 8. Section 126.23A, subsection 1, paragraph b, Code 2009, is amended to read as follows:

b. A retailer or an employee of a retailer shall do the following:

(1) Provide for the sale of a pseudoephedrine product in a locked cabinet or behind a sales counter where the public is unable to reach the product and where the public is not permitted.

(2) Require a purchaser to present a government-issued photo identification card identifying the purchaser prior to purchasing a pseudoephedrine product.

(3) Require the purchaser to sign a logbook and to also require the purchaser to legibly print the purchaser's name and address in the logbook.

(4) Print the name of the pseudoephedrine product purchased and quantity sold next to the name of each purchaser in the logbook.

~~(4) (5)~~ Determine the signature in the logbook corresponds with the name on the government-issued photo identification card.

~~(5) (6)~~ Keep the logbook ~~twelve~~ twenty-four months from the date of the last entry.

~~(6) (7)~~ Provide notification in a clear and conspicuous manner in a location where a pseudoephedrine product is offered for sale stating the following:

Iowa law prohibits the over-the-counter purchase of more than one package of a product containing pseudoephedrine in a twenty-four-hour period or of more than seven thousand five hundred milligrams of pseudoephedrine within a thirty-day period. If you purchase a product containing pseudoephedrine, you are required to sign a logbook which may be accessible to law enforcement officers.

(8) Provide notification affixed to the logbook stating that a purchaser entering a false statement or misrepresentation in the logbook may subject the purchaser to criminal penalties under 18 U.S.C. § 1001.

(9) Disclose logbook information as provided by state and federal law.

(10) Comply with training requirements pursuant to federal law.

Sec. 9. CONTINGENT APPLICABILITY — GOVERNOR'S OFFICE OF DRUG CONTROL POLICY AND CODE EDITOR RESPONSIBILITIES.

1. The governor's office of drug control policy shall notify the Code editor when the establishment of the repository on a statewide basis is complete.

2. When the establishment of the central repository on a statewide basis is complete, the Code editor is directed to remove section 124.212A, subsection 2, and section 124.212B, subsection 10, from the Code and to internally renumber the sections as necessary.

Approved March 25, 2009