

February

SENATE FILE 2141

BY FUHRMAN

FILED JAN 27 1973

(COMPANION TO LSB 7763H
BY PETERSEN of Muscatine)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to substances which may be used as a precursor in
2 the illegal production of controlled substances and providing
3 penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 2141

1 Section 1. NEW SECTION. 204B.1 DEFINITIONS.

2 As used in this chapter, unless the context otherwise re-
3 quires:

- 4 1. "Board" means the board of pharmacy examiners.
- 5 2. "Controlled substance" means a controlled substance as
6 defined in section 204.101.
- 7 3. "Practitioner" means a practitioner as defined in
8 section 155A.3.
- 9 4. "Precursor substance" means a substance which may be
10 used as a precursor in the illegal production of a controlled
11 substance and is specified under section 204B.2.
- 12 5. "Recipient" means a person in this state who purchases,
13 transfers, or otherwise receives a precursor substance.
- 14 6. "Vendor" means a person who manufactures, wholesales,
15 retails, or otherwise sells, transfers, or furnishes in this
16 state a precursor substance.

17 Sec. 2. NEW SECTION. 204B.2 REPORTING REQUIRED.

18 1. Effective July 1, 1990, a report to the board shall be
19 submitted in accordance with this chapter by a manufacturer,
20 retailer, or other person who sells, transfers, or otherwise
21 furnishes to any person in this state any of the following
22 substances:

- 23 a. Anthranilic acid and its salts.
- 24 b. Benzyl Cyanide.
- 25 c. Ephedrine, its salts, optical isomers, and salts of
26 optical isomers.
- 27 d. Ergonovine and its salts.
- 28 e. Ergotamine and its salts.
- 29 f. 3,4 - methylenedioxyphenyl-2-propanone.
- 30 g. N-acetylanthranilic acid and its salts.
- 31 h. Norpseudoephedrine, its salts, optical isomers, and
32 salts of optical isomers.
- 33 i. Phenylacetic acid and its salts.
- 34 j. Phenylpropanolamine, its salts, optical isomers, and
35 salts of optical isomers.

1 k. Piperidine and its salts.

2 1. Pseudoephedrine, its salts, optical isomers, and salts
3 of optical isomers.

4 2. The board shall administer the regulatory provisions of
5 this chapter and may, by rule adopted pursuant to chapter 17A,
6 add a substance to or remove a substance from the list in sub-
7 section 1. In determining whether to add or remove a
8 substance from the list, the board shall consider the
9 following:

10 a. The likelihood that the substance may be used as a pre-
11 cursor in the illegal production of a controlled substance.

12 b. The availability of the substance.

13 c. The appropriateness of including the substance under
14 this chapter or under chapter 204.

15 d. The extent and nature of legitimate uses for the sub-
16 stance.

17 3. On or before November 1 of each year, the board shall
18 inform the general assembly of any substances added, deleted,
19 or changed in the list contained in section 204B.2 and shall
20 provide an explanation of any addition, deletion, or change.

21 Sec. 3. NEW SECTION. 204B.3 IDENTIFICATION REQUIRED.

22 1. Before selling, transferring, or otherwise furnishing
23 any substance specified in section 204B.2 to a person in this
24 state, a vendor shall require proper identification from the
25 purchaser.

26 2. For the purposes of this section, in the case of a
27 face-to-face purchase, "proper identification" means all of
28 the following:

29 a. A motor vehicle operator's license containing the pur-
30 chaser's photograph and residential or mailing address, other
31 than a post office box number, or any other official state-
32 issued identification containing this information.

33 b. The motor vehicle license number of any vehicle owned
34 or operated by the purchaser.

35 c. A letter or authorization from the person who is making

1 the purchase. The letter shall include the person's business
2 license number and business address, a description as to how
3 the substance will be used, and the purchaser's signature.
4 The vendor shall affix the vendor's signature as a witness to
5 the signature and identification of the purchaser.

6 3. The board shall provide by rule for the form of proper
7 identification required for purchases which are not face to
8 face.

9 4. A person who violates this section or rules adopted
10 pursuant to this section commits a simple misdemeanor.

11 Sec. 4. NEW SECTION. 204B.4 VENDOR REPORTING.

12 1. At least twenty-one days prior to the delivery of a
13 precursor substance to a recipient, the vendor shall submit a
14 report of the transaction to the board. The report must
15 contain the identification information specified under section
16 204B.3. However, if regular, repeated transactions of a
17 particular precursor substance occur between the vendor and
18 the recipient, the board may authorize the vendor to report
19 the transactions monthly if either of the following conditions
20 exists:

21 a. A pattern of regular supply of the precursor substance
22 exists between the vendor and the recipient.

23 b. The recipient has established a record of lawfully
24 using the precursor substance.

25 2. A vendor who does not submit a report pursuant to this
26 section commits an aggravated misdemeanor.

27 Sec. 5. NEW SECTION. 204B.5 RECEIPT OF SUBSTANCE FROM
28 OUTSIDE THE STATE -- PENALTY.

29 1. A vendor, recipient, or other person required to report
30 pursuant to this chapter who receives a precursor substance
31 from a source outside the state shall submit a report to the
32 board pursuant to rules adopted by the board.

33 2. A person who does not submit a report required under
34 this section commits an aggravated misdemeanor.

35 Sec. 6. NEW SECTION. 204B.6 EXCEPTIONS.

1 The requirements of sections 204B.2 through 204B.5 do not
2 apply to any of the following:

3 1. A licensed pharmacist or other person authorized under
4 chapter 155A to sell or furnish a precursor substance upon the
5 prescription of a practitioner.

6 2. A practitioner who administers or furnishes a precursor
7 substance to a patient.

8 3. A vendor who holds a permit issued by the board and who
9 sells, transfers, or otherwise furnishes a precursor substance
10 to a practitioner or a pharmacy as defined in section 155A.3.

11 4. A sale, transfer, furnishing, or receipt of a drug con-
12 taining ephedrine, phenylpropanolamine, or pseudoephedrine or
13 of a cosmetic containing a precursor substance if the drug or
14 cosmetic is lawfully sold, transferred, or furnished over the
15 counter without a prescription in accordance with chapter
16 203B.

17 Sec. 7. NEW SECTION. 204B.7 REPORTING FORM.

18 1. The board shall adopt rules prescribing a common form
19 for the filing of reports required under this chapter. The
20 rules shall provide that the information which must be
21 submitted shall include but is not limited to all of the
22 following:

23 a. The name of the precursor substance.

24 b. The quantity of the precursor substance sold,
25 transferred, or furnished.

26 c. The date the precursor substance was sold, transferred,
27 or furnished.

28 d. The name and address of the recipient.

29 e. The name and address of the vendor.

30 2. Reports authorized under subsection 1, paragraph "e",
31 may be computer-generated and submitted monthly in accordance
32 with rules adopted by the board.

33 Sec. 8. NEW SECTION. 204B.8 MISSING QUANTITY --
34 REPORTING.

35 A person who is required to report to the board pursuant to

1 this chapter or a person listed as an exception under section
2 204B.6 shall report to the board either of the following
3 occurrences within seven days of knowledge of the loss or
4 occurrence:

5 1. Loss or theft of a precursor substance.

6 2. A difference between the amount of a precursor
7 substance shipped and the amount of a precursor substance
8 received. If applicable, the report shall include the name of
9 the person who transported the precursor substance and the
10 date of shipment.

11 Sec. 9. NEW SECTION. 204B.9 SALE, TRANSFER, FURNISHING,
12 OR RECEIPT FOR UNLAWFUL PURPOSE -- PENALTY.

13 1. A person who sells, transfers, or otherwise furnishes a
14 precursor substance with knowledge or the intent that the
15 recipient will use the precursor substance to unlawfully manu-
16 facture a controlled substance commits a class "C" felony.

17 2. A person who receives a precursor substance with intent
18 to use the substance unlawfully to manufacture a controlled
19 substance commits a class "C" felony.

20 Sec. 10. NEW SECTION. 204B.10 FALSE STATEMENT --
21 PENALTY.

22 A person who knowingly makes a false statement in
23 connection with any report or record required to be made under
24 this chapter commits a class "D" felony.

25 Sec. 11. NEW SECTION. 204B.11 PERMIT REQUIREMENTS --
26 PENALTY.

27 1. A vendor or a recipient who receives a precursor
28 substance from a source outside the state shall obtain a
29 permit for the transaction from the board. However, a permit
30 is not required of a vendor of a drug containing ephedrine,
31 phenylpropanolamine, or pseudoephedrine or of a cosmetic that
32 contains a precursor substance if the drug or cosmetic is
33 lawfully sold, transferred, or furnished either over the
34 counter without a prescription in accordance with chapter 203B
35 or with a prescription pursuant to chapter 155A.

1 and establishes a new chapter, tentatively numbered 204B.

2 Definitions are provided. An initial listing of precursor
3 drugs is provided and the state board of pharmacy examiners is
4 authorized to amend or expand the listing by administrative
5 rule adopted according to certain criteria. The board must
6 annually report and explain any changes in the listing to the
7 general assembly.

8 Certain identification is required for face-to-face
9 transactions of precursor drugs and the board is required to
10 adopt rules requiring forms of identification for other types
11 of transactions. Subject to specified exceptions, vendors of
12 precursor drugs are required to file certain reports in
13 advance of a transaction of a precursor drug. Failure to do
14 so is an aggravated misdemeanor.

15 A person who receives a precursor drug from outside the
16 state is required to file a report in accordance with rules
17 adopted by the board. Failure to do so is an aggravated
18 misdemeanor.

19 Certain exceptions to the reporting requirements are
20 provided for pharmacists and other professional practitioners
21 who are authorized to prescribe, administer, or furnish
22 precursor substances.

23 The board is required to adopt administrative rules for a
24 common reporting form according to certain standards.

25 All persons who are involved in transactions of precursor
26 drugs are required to report to the board when there has been
27 a loss or theft of a precursor substance or the amount of a
28 precursor substance shipped is different than the amount
29 received.

30 A person who knowingly provides or receives a precursor
31 substance which will be used to manufacture a controlled
32 substance commits a class "C" felony. A person who knowingly
33 makes a false statement in connection with a required record
34 or report commits a class "D" felony.

35 Subject to certain exceptions, permits are required for

1 transfers of precursor substances and must be annually
2 renewed. Exceptions are provided. A person who transfers
3 precursor substances without a permit commits a serious
4 misdemeanor. The board is authorized to refuse, suspend, or
5 revoke a permit in accordance with certain standards.

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