



THOMAS J. VILSACK
GOVERNOR

OFFICE OF THE GOVERNOR

SALLY J. PEDERSON
LT. GOVERNOR

May 3, 2004

The Honorable Chester Culver
Secretary of State
State Capitol Building
LOCAL

Dear Mr. Secretary:

I hereby transmit:

House File 2186, an Act increasing the damages payable upon conviction of certain unlawful activities involving antlered deer.

House File 2200, an Act relating to fire safety issues, including the establishment of a fire extinguishing system contractor certification program in the office of the State Fire Marshal, the promulgation of administrative rules by the State Fire Marshal, and arson and simulated explosive related criminal offenses, and providing for fees and penalties and for the Act's applicability.

House File 2243, an Act regarding user responsibility and liability with respect to liquefied petroleum gas systems.

House File 2259, an Act relating to the selling and purchasing of products containing pseudoephedrine, and providing penalties.

House File 2352, an Act relating to the appointment of illegal dumping enforcement officers and providing a penalty.

House File 2418, an Act relating to meeting dates by which the State Board of Regents must make final decisions on tuition increases for institutions of higher education under its control.



House File 2462, an Act directing the Department of Human Services to implement child welfare diversion and mediation pilot programs.

House File 2533, an Act relating to protective orders and court-approved consent agreements under the Domestic Abuse Act.

The above House Files are hereby approved this date.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Vilsack', with a long horizontal flourish extending to the right.

Thomas J. Vilsack
Governor

TJV:jmc

cc: Secretary of the Senate
Chief Clerk of the House



HOUSE FILE 2259

AN ACT

RELATING TO THE SELLING AND PURCHASING OF PRODUCTS CONTAINING
PSEUDOEPHEDRINE, AND PROVIDING PENALTIES.

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

Section 1. NEW SECTION. 126.23A PSEUDOEPHEDRINE --
RESTRICTIONS.

1. A retailer shall not sell and a person shall not purchase in a single transaction more than two packages containing pseudoephedrine as the products' sole active ingredient.

2. A retailer who offers for sale a product containing pseudoephedrine as the product's sole active ingredient shall display and offer such product for sale, except as otherwise provided, behind a counter where the public is not permitted or within twenty feet of a counter which allows the attendant to view the products in an unobstructed manner. A retailer may display or offer for sale without restriction a product containing pseudoephedrine as the sole active ingredient if

the product is displayed using any type of antitheft device system including but not limited to an electronic antitheft device system that utilizes a product tag and detection alarm which prevents the theft of the product.

3. A retailer shall post a notice at the location where a product containing pseudoephedrine as its sole active ingredient is displayed or offered for sale stating the following:

Iowa law prohibits the sale or purchase of more than two packages containing pseudoephedrine as the sole active ingredient.

4. An employee of a retailer who sells packages containing pseudoephedrine or a person who purchases packages containing pseudoephedrine in violation of subsection 1 commits a simple misdemeanor, punishable as a scheduled violation under section 805.8C, subsection 4, paragraph "a". If a citation is issued for a violation of subsection 1, the citation shall be issued to both the employee who sells the packages and the purchaser.

5. For each violation of subsection 1, 2, or 3 by a retailer, the retailer shall be assessed a scheduled fine under section 805.8C, subsection 4, paragraph "b".

6. a. Enforcement of any scheduled fine for violation of this section by the state or a political subdivision of the state shall be in magistrate court.

b. Enforcement of this section shall also be implemented uniformly throughout the state. For purposes of uniform implementation, a county or municipality shall not set requirements or establish a penalty which is higher or more stringent than the requirements or penalties enumerated in this section.

7. All civil penalty moneys collected by the state or a political subdivision of the state pursuant to this section shall be retained by the state or political subdivision of the state, respectively.

8. As used in this section, "retailer" means a person or business entity engaged in this state in the business of selling products on a retail basis.

9. This section shall not apply to the following:

a. Any package of a product containing pseudoephedrine as the product's sole active ingredient which is in liquid form.

b. Any package of a product containing pseudoephedrine as the product's sole active ingredient which is primarily

intended for administration to children under twelve years of age according to the label, regardless of whether the product is in liquid or solid form.

c. Any package of a product containing pseudoephedrine as the product's sole active ingredient that the board of pharmacy examiners, with the concurrence of the department of public safety, upon application of a manufacturer, exempts from this section because the product is formulated to effectively prevent conversion of the active ingredient into methamphetamine or its salts or precursors. The board of pharmacy examiners, with the concurrence of the department of public safety, shall adopt rules pursuant to chapter 17A to administer this paragraph.

Sec. 2. Section 602.8105, Code Supplement 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The clerk of the district court shall collect a civil penalty assessed against a retailer pursuant to section 126.23A. Any moneys collected from the civil penalty shall be distributed to the state or a political subdivision of the state as provided in section 126.23A, subsection 7.

Sec. 3. NEW SECTION. 714.7C THEFT OF PSEUDOEPHEDRINE -- ENHANCEMENT.

Notwithstanding section 714.2, subsection 5, a person who commits a simple misdemeanor theft of more than two packages containing any of the following commits a serious misdemeanor:

1. Pseudoephedrine as the product's sole active ingredient.

2. Pseudoephedrine in combination with other active ingredients.

A simple misdemeanor theft of more than two packages containing pseudoephedrine as the products' sole active ingredient which are in liquid form does not constitute a serious misdemeanor under this section.

Sec. 4. Section 805.8C, Code 2003, is amended by adding the following new subsection:

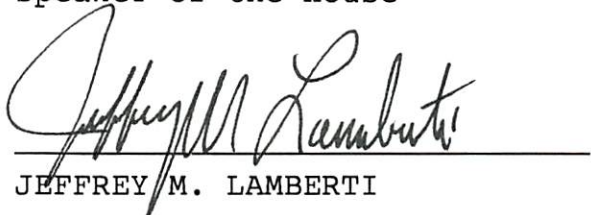
NEW SUBSECTION. 4. a. PSEUDOEPHEDRINE SALES VIOLATIONS. For a violation of section 126.23A, subsection 1, the scheduled fine is one hundred dollars.

b. For a violation of section 126.23A, subsection 1, 2, or 3, by a retailer, the scheduled fine is one hundred dollars, and is a civil penalty and the criminal penalty surcharge

under section 911.2 shall not be added to the penalty, and the court costs pursuant to section 805.9, subsection 6, shall not be imposed.



CHRISTOPHER C. RANTS
Speaker of the House



JEFFREY M. LAMBERTI
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2259, Eightieth General Assembly.



MARGARET THOMSON
Chief Clerk of the House

Approved May 3, 2004



THOMAS J. VILSACK
Governor