

REPRINTED

FILED FEB 8 1996

SENATE FILE 2154
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 2083)

(p.418)
Passed Senate, Date 2/22/96 Passed House, Date 4/1/96 (p.1136)
Vote: Ayes 46 Nays 0 Vote: Ayes 99 Nays 0
Approved 4/24/94

A BILL FOR

1 An Act increasing the penalties for certain offenses involving
2 methamphetamine.

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

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S.F. 2154

REPLINATED

1 Section 1. Section 124.401, subsection 1, paragraph a,
2 subparagraph (2), subparagraph subdivision (d), Code 1995, is
3 amended to read as follows:

4 (d) Methamphetamine, its salts, isomers, and salts of
5 isomers.

6 (e) Any compound, mixture, or preparation which contains
7 any quantity of any of the substances referred to in
8 subparagraph subdivisions (a) through ~~(e)~~ (d).

9 Sec. 2. Section 124.401, subsection 1, paragraph b, Code
10 1995, is amended by adding the following new subparagraph:

11 NEW SUBPARAGRAPH. (7) More than five grams but not more
12 than five kilograms of methamphetamine, its salts, isomers,
13 and salts of isomers or any compound, mixture, or preparation
14 which contains any quantity or detectable amount of
15 methamphetamine, its salts, isomers, and salts of isomers.

16 Sec. 3. Section 124.401, subsection 1, paragraph c, Code
17 1995, is amended by adding the following new subparagraph (6)
18 and renumbering the subsequent subparagraph:

19 NEW SUBPARAGRAPH. (6) Five grams or less of
20 methamphetamine, its salts, isomers, and salts of isomers or
21 any compound, mixture, or preparation which contains any
22 quantity or detectable amount of methamphetamine, its salts,
23 isomers, and salts of isomers.

24 Sec. 4. Section 232.22, subsection 1, paragraph e,
25 subparagraph (3), Code Supplement 1995, is amended to read as
26 follows:

27 (3) A mixture or substance containing methamphetamine, its
28 salts, isomers, and salts of isomers, and if the act was
29 committed by an adult, it would be a violation of section
30 124.401, subsection 1~~7~~-paragraph-~~"e"~~~~7~~-subparagraph-~~(6)~~.

31 EXPLANATION

32 This bill increases the penalties for the manufacture,
33 delivery, or possession with intent to manufacture or deliver
34 certain amounts of methamphetamine or any compound, mixture,
35 or preparation containing methamphetamine, as well as the

1 penalties for conspiracy to commit these offenses. Under
2 current law, the offenses are class "C" felonies punishable by
3 a term of imprisonment not to exceed 10 years and a fine of
4 not less than \$1,000 or more than \$50,000, regardless of the
5 amount of methamphetamine involved in the offense.

6 Section 1 of the bill provides that an offense involving
7 more than five kilograms of methamphetamine or a compound
8 containing methamphetamine is a class "B" felony punishable by
9 a term of imprisonment not to exceed 50 years and a fine of
10 not more than \$1,000,000. Because the offense is created in
11 section 124.401, subsection 1, paragraph "a", defendants
12 awaiting judgment and sentencing following a plea or verdict
13 and defendants appealing a conviction shall not be admitted to
14 bail pursuant to section 811.1.

15 Section 2 of the bill provides that an offense involving
16 more than five grams but not more than five kilograms of
17 methamphetamine or a compound containing methamphetamine is a
18 class "B" felony punishable by a term of imprisonment not to
19 exceed 25 years and a fine of not less than \$5,000 or more
20 than \$100,000.

21 Section 3 of the bill provides that an offense involving
22 five grams or less of methamphetamine or a compound containing
23 methamphetamine is a class "C" felony punishable by a term of
24 imprisonment not to exceed 10 years and a fine of not less
25 than \$1,000 or more than \$50,000. This is the current penalty
26 for the offense, regardless of the amount of methamphetamine
27 involved.

28 Section 4 of the bill makes a corresponding change to
29 reflect the new offenses in a provision pertaining to
30 placement in juvenile detention.

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**SENATE FILE 2154
FISCAL NOTE**

The estimate for Senate File 2154 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2154 increases the penalties for certain methamphetamine offenses. The bill increases the penalties for the manufacture, delivery, or possession with intent to manufacture or deliver certain amounts of a mixture or substance containing methamphetamine as well as the penalties for conspiracy to commit these offenses. Under current law, the offenses are class "C" felonies punishable by a term of imprisonment not to exceed 10 years and a fine of not less than \$1,000 or more than \$50,000 regardless of the amount of methamphetamine involved in the offense.

ASSUMPTIONS

1. Charge, conviction, and sentencing patterns and trends will not change over the projection period, except where noted.
2. Prisoner length of stay, revocation rates, and other corrections policies practices will not change over the projection period.
3. There is no readily available information regarding methamphetamine possession and/or sale in the state. The analysis is based on data from the 1990 Iowa Uniform Crime Reports.
4. Five class "B" convictions with a 25 year penalty may occur as a result of committing an offense involving more than one hundred grams but not more than one kilogram of methamphetamine.
5. Four class "B" convictions with a 50 year penalty may occur as a result of committing an offense involving more than one kilogram of methamphetamine.
6. Convictions for felony drug offenses are currently trending upward, therefore the analysis assumes a 19% yearly increase in such convictions throughout the projection period.

CORRECTIONAL IMPACT

A total of 9 convictions may occur each year due to the adoption of SF 2154, resulting in the following correctional impact on prisons:

Increase in Admissions to Prison

	FY 1997	FY 1998	FY 2001
Admissions	5	11	43
Population Increase	5	16	88

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NOTE: The total estimated correctional impact of SF 2154 is not reflected in the five-year analysis. The long-range effect on the prison population could be significant as a result of this bill.

FISCAL IMPACT

The fiscal impact on the General Fund is an estimated cost increase for the Department of Corrections of \$21,900 in FY 1997, \$70,080 for FY 1998, and \$385,44 for FY 2001.

NOTE: The average marginal cost per year for a prison inmate is estimated to be \$4,380.

SOURCES

Department of Human Services
Criminal and Juvenile Justice Planning
Department of Corrections

(LSB 3685SV, PQP)

FILED FEBRUARY 19, 1996

BY DENNIS PROUTY, FISCAL DIRECTOR

1 Amend Senate File 2154 as follows:

2 1. Page 1, by inserting before line 1 the
3 following:

4 "Section 1. Section 124.210, subsection 5, Code
5 1995, is amended by adding the following new paragraph
6 and relettering the subsequent paragraphs:

7 NEW PARAGRAPH. c. Ephedrine or pseudoephedrine,
8 as the only active medicinal ingredient or in
9 combination with therapeutically insignificant
10 quantities of another active medicinal ingredient.
11 Pseudoephedrine is ephedrine that is altered or
12 synthesized."

13 2. Page 1, by inserting after line 23 the
14 following:

15 "Sec. _____. Section 124.401, subsection 1, Code
16 1995, is amended by adding the following new
17 paragraph:

18 NEW PARAGRAPH. g. Violation of this subsection,
19 with respect to ephedrine, its salts, optical isomers,
20 and salts of optical isomers, or pseudoephedrine, its
21 salts, optical isomers, and salts of optical isomers,
22 with the intent to manufacture methamphetamine or any
23 of methamphetamine's analogs, is a class "D" felony.

24 Sec. _____. Section 124.401, Code 1995, is amended
25 by adding the following new subsection:

26 NEW SUBSECTION. 2A. It is unlawful for any person
27 to sell or distribute any product containing
28 ephedrine, its salts, optical isomers, and salts of
29 optical isomers, or pseudoephedrine, its salts,
30 optical isomers, and salts of optical isomers, for
31 purposes of physical or mental stimulation, energy, or
32 other purposes not approved by the United States food
33 and drug administration. A person who violates this
34 subsection commits a serious misdemeanor."

35 3. By renumbering as necessary.

By TONY BISIGNANO

S-5100 FILED FEBRUARY 22, 1996

ADOPTED

(P. 418)

S-5081 FILED FEBRUARY 19, 1996

SENATE FILE 2154

S-5082

- 1 Amend Senate File 2154 as follows:
- 2 1. Page 1, by inserting before line 1 the
- 3 following:
- 4 "Section 1. Section 124.206, subsection 4, Code
- 5 1995, is amended by adding the following new
- 6 paragraph:
- 7 NEW PARAGRAPH. e. Ephedrine."
- 8 2. By renumbering as necessary.

By TONY BISIGNANO

S-5082 FILED FEBRUARY 19, 1996

WITHDRAWN

(p. 363)

SENATE FILE 2154 .

S-5083

- 1 Amend Senate File 2154 as follows:
- 2 1. Page 1, by inserting before line 1 the
- 3 following:
- 4 "Section 1. Section 124.212, Code 1995, is amended
- 5 by adding the following new subsection:
- 6 NEW SUBSECTION. 5. Ephedrine, but not including
- 7 natural herbal ephedra dietary supplement products."

By TONY BISIGNANO

S-5083 FILED FEBRUARY 19, 1996

ADOPTED

(p. 363)

2/26/96 Judiciary
3/20/96 Amend / Do Pass
W/H - 5479

SENATE FILE **2154**
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 2083)
(AS AMENDED AND PASSED BY THE SENATE FEBRUARY 22, 1996)
_____ - New Language by the Senate

Passed Senate, Date ^(P.1256) 4/8/96 Passed House, Date 4/1/96 (P.1136)
Vote: Ayes 49 Nays 0 Vote: Ayes 99 Nays 0
Approved 4/28/96 Approved 4-18-96
Vote 89-0 (P. 1737)

A BILL FOR

1 An Act increasing the penalties for certain offenses involving
2 methamphetamine.

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

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Senate Conf. Comm.
4-12-96 P. 1368
By Bisignano
Giannetto
Neuhauer
Maddox
Ziemon

House Conf. Comm.
Veneta
Coon
Boddeker
Krouland
Osterhaus

S.F. 2154

1 Section 1. Section 124.210, subsection 5, Code 1995, is
2 amended by adding the following new paragraph and relettering
3 the subsequent paragraphs:

4 NEW PARAGRAPH. c. Ephedrine or pseudoephedrine, as the
5 only active medicinal ingredient or in combination with
6 therapeutically insignificant quantities of another active
7 medicinal ingredient. Pseudoephedrine is ephedrine that is
8 altered or synthesized.

9 Sec. 2. Section 124.212, Code 1995, is amended by adding
10 the following new subsection:

11 NEW SUBSECTION. 5. Ephedrine, but not including natural
12 herbal ephedra dietary supplement products.

13 Sec. 3. Section 124.401, subsection 1, paragraph a,
14 subparagraph (2), subparagraph subdivision (d), Code 1995, is
15 amended to read as follows:

16 (d) Methamphetamine, its salts, isomers, and salts of
17 isomers.

18 (e) Any compound, mixture, or preparation which contains
19 any quantity of any of the substances referred to in
20 subparagraph subdivisions (a) through ~~(c)~~ (d).

21 Sec. 4. Section 124.401, subsection 1, paragraph b, Code
22 1995, is amended by adding the following new subparagraph:

23 NEW SUBPARAGRAPH. (7) More than five grams but not more
24 than five kilograms of methamphetamine, its salts, isomers,
25 and salts of isomers or any compound, mixture, or preparation
26 which contains any quantity or detectable amount of
27 methamphetamine, its salts, isomers, and salts of isomers.

28 Sec. 5. Section 124.401, subsection 1, paragraph c, Code
29 1995, is amended by adding the following new subparagraph (6)
30 and renumbering the subsequent subparagraph:

31 NEW SUBPARAGRAPH. (6) Five grams or less of
32 methamphetamine, its salts, isomers, and salts of isomers or
33 any compound, mixture, or preparation which contains any
34 quantity or detectable amount of methamphetamine, its salts,
35 isomers, and salts of isomers.

1 Sec. 6. Section 124.401, subsection 1, Code 1995, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. g. Violation of this subsection, with
4 respect to ephedrine, its salts, optical isomers, and salts of
5 optical isomers, or pseudoephedrine, its salts, optical
6 isomers, and salts of optical isomers, with the intent to
7 manufacture methamphetamine or any of methamphetamine's
8 analogs, is a class "D" felony.

9 Sec. 7. Section 124.401, Code 1995, is amended by adding
10 the following new subsection:

11 NEW SUBSECTION. 2A. It is unlawful for any person to sell
12 or distribute any product containing ephedrine, its salts,
13 optical isomers, and salts of optical isomers, or
14 pseudoephedrine, its salts, optical isomers, and salts of
15 optical isomers, for purposes of physical or mental
16 stimulation, energy, or other purposes not approved by the
17 United States food and drug administration. A person who
18 violates this subsection commits a serious misdemeanor.

19 Sec. 8. Section 232.22, subsection 1, paragraph e,
20 subparagraph (3), Code Supplement 1995, is amended to read as
21 follows:

22 (3) A mixture or substance containing methamphetamine, its
23 salts, isomers, and salts of isomers, and if the act was
24 committed by an adult, it would be a violation of section
25 124.401, subsection 1, paragraph "c", subparagraph (6).

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SENATE FILE 2154
FISCAL NOTE

The estimate for SF 2154 as Amended by H-5479 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Amendment H-5479 creates the penalty of a serious misdemeanor for selling or distributing ephedrine and expands the geographical areas subject to drug distribution penalty enhancements. Senate File 2154 increases the penalties for certain methamphetamine offenses. The Bill increases the penalties for the manufacture, delivery, or possession with intent to manufacture or deliver certain amounts of a mixture or substance containing methamphetamine as well as the penalties for conspiracy to commit these offenses. Under current law, the offenses are Class "C" felonies punishable by a term of imprisonment not to exceed 10 years and a fine of not less than \$1,000 or more than \$50,000 regardless of the amount of methamphetamine involved in the offense.

ASSUMPTIONS

1. Charge, conviction, and sentencing patterns and trends will not change over the projection period, except where noted.
2. Prisoner length of stay, revocation rates, and other corrections policies practices will not change over the projection period.
3. There is no readily available information regarding methamphetamine possession and/or sale in the state. The analysis is based on data from the 1990 Iowa Uniform Crime Reports.
4. Nine Class "B" convictions with a 25-year penalty may occur as a result of committing an offense involving more than one hundred grams but not more than one kilogram of methamphetamine.
5. Four Class "B" convictions with a 50-year penalty may occur as a result of committing an offense involving more than one kilogram of methamphetamine.
6. Convictions for felony drug offenses are currently trending upward, therefore the analysis assumes a 19% yearly increase in such convictions throughout the projection period.

CORRECTIONAL IMPACT

The proposed new serious misdemeanor penalty for selling or distributing ephedrine contained in Amendment H-5479 will not have any significant correctional impact. A total of 13 convictions may occur each year due to the adoption of SF 2154 as amended by H-5479, resulting in the following correctional impact on prisons:

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Admissions to Prison

	<u>FY 1997</u>	<u>FY 1998</u>	<u>FY 2001</u>
Admissions	7	15	48
Population Increase	7	22	101

NOTE: The total estimated correctional impact of SF 2154 as amended by H-5479, is not reflected in the five-year analysis. The long-range effect on the prison population could be significant as a result of this Bill.

FISCAL IMPACT

The fiscal impact on the General Fund is an estimated cost increase for the Department of Corrections of \$30,660 in FY 1997, \$96,360 for FY 1998, and \$442,380 for FY 2001.

NOTE: The average marginal cost per year for a prison inmate is estimated to be \$4,380.

SOURCES

Department of Human Services
Criminal and Juvenile Justice Planning
Department of Corrections

(LSB 3685sv.2, PQP)

FILED APRIL 1, 1996

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 2154

H-5479

- 1 Amend Senate File 2154, as amended, passed, and
2 reprinted by the Senate, as follows:
- 3 1. Page 1, by striking lines 1 through 12 and
4 inserting the following:
5 "Sec. ____ . Section 124.212, Code 1995, is amended
6 by adding the following new subsection:
7 NEW SUBSECTION. 5. Unless specifically excepted
8 or listed in another schedule, any material, compound,
9 mixture, or preparation which contains any quantity of
10 ephedrine, including its salts, optical isomers, or
11 salts of optical isomers shall be included in schedule
12 V, but natural herbal ephedra products regulated and
13 marketed as dietary supplements under the federal
14 Dietary Supplement Health and Education Act of 1994,
15 21 U.S.C. § 321, 331, 342, 343, 343-2, 350, and 350b,
16 and 42 U.S.C. § 281 and 287c-11, shall not be included
17 in schedule V. This subsection does not apply to any
18 material, compound, mixture, or preparation which is
19 specifically exempted or excluded under federal drug
20 control law or regulation or by rule of the board. At
21 the request of any person, the board may, pursuant to
22 657 IAC 10.5, exempt by rule any drug product
23 containing ephedrine from being included in this
24 subsection."
- 25 2. Page 1, line 16, by striking the word "and"
26 and inserting the following: "or".
- 27 3. Page 1, line 25, by striking the word "and"
28 and inserting the following: "or".
- 29 4. Page 1, line 25, by striking the word
30 "isomers" and inserting the following: "isomers, or
31 analogs of methamphetamine,".
- 32 5. Page 1, line 27, by striking the word "and"
33 and inserting the following: "or".
- 34 6. Page 1, line 27, by striking the words "of
35 isomers" and inserting the following: "of isomers, or
36 analogs of methamphetamine".
- 37 7. Page 1, line 32, by striking the word "and"
38 and inserting the following: "or".
- 39 8. Page 1, line 32, by striking the words "of
40 isomers" and inserting the following: "of isomers, or
41 analogs of methamphetamine,".
- 42 9. Page 1, line 35, by striking the word "and"
43 and inserting the following: "or".
- 44 10. Page 1, line 35, by striking the words "of
45 isomers" and inserting the following: "of isomers, or
46 analogs of methamphetamine".
- 47 11. Page 2, line 4, by striking the word "and"
48 and inserting the following: "or".
- 49 12. Page 2, lines 5 and 6, by striking the words
50 "or pseudoephedrine, its salts, optical isomers, and

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Page 2

1 salts of optical isomers,".

2 13. Page 2, line 7, by striking the words
3 "methamphetamine or" and inserting the following:
4 "methamphetamine,".

5 14. Page 2, line 8, by inserting after the word
6 "analogs," the following: "or any other controlled
7 substance,".

8 15. Page 2, by striking lines 11 through 18 and
9 inserting the following:

10 "NEW SUBSECTION. 2A. It is unlawful for any
11 person to sell, distribute, or make available any
12 product containing ephedrine, its salts, optical
13 isomers, salts of optical isomers, or analogs of
14 ephedrine, or pseudoephedrine, its salts, optical
15 isomers, or salts of optical isomers, if the person
16 knows, or should know, that the product may be used as
17 a precursor to any illegal substance, an intermediary
18 to any controlled substance, or for a purpose other
19 than a legitimate medicinal use. A person who
20 violates this subsection commits a serious
21 misdemeanor.

22 Sec. _____. Section 124.401A, Code 1995, is amended
23 to read as follows:

24 124.401A ENHANCED PENALTY FOR DISTRIBUTION TO
25 PERSONS ON CERTAIN REAL PROPERTY.

26 In addition to any other penalties provided in this
27 chapter, a person who is eighteen years of age or
28 older who unlawfully distributes or possesses with
29 intent to distribute a substance or counterfeit
30 substance listed in schedule I, II, or III, or a
31 simulated controlled substance represented to be a
32 controlled substance classified in schedule I, II, or
33 III, to another person who is eighteen years of age or
34 older in or on, or within one thousand feet of the
35 real property comprising a public or private
36 elementary or secondary school, ~~or-in-or-on-the-real~~
37 ~~property-comprising-a~~ public park, public swimming
38 pool, public recreation center, or on a marked school
39 bus, ~~may,-at-the-judge's-discretion,~~ be sentenced up
40 to an additional term of confinement of five years.

41 Sec. _____. Section 124.401B, Code 1995, is amended
42 to read as follows:

43 124.401B POSSESSION OF CONTROLLED SUBSTANCES ON
44 CERTAIN REAL PROPERTY -- ADDITIONAL PENALTY.

45 In addition to any other penalties provided in this
46 chapter or another chapter, a person who unlawfully
47 possesses a substance listed in schedule I, II, or
48 III, or a simulated controlled substance represented
49 to be a controlled substance classified in schedule I,
50 II, or III, in or on, or within one thousand feet of

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Page 3

1 the real property comprising a public or private
2 elementary or secondary school, ~~or-in-or-on-the-real~~
3 ~~property-comprising-a~~ public park, public swimming
4 pool, public recreation center, or on a marked school
5 bus, may be sentenced to one hundred hours of
6 community service work for a public agency or a
7 nonprofit charitable organization. The court shall
8 provide the offender with a written statement of the
9 terms and monitoring provisions of the community
10 service."

11 16. Page 2, line 23, by striking the words
12 "isomers, and" and inserting the following: "isomers,
13 or".

14 17. Page 2, line 23, by inserting after the words
15 "of isomers," the following: "or analogs of
16 methamphetamine,".

17 18. Page 2, by inserting after line 25 the
18 following:

19 "Sec. ____ . Section 124.212, subsection 5, and
20 subsection 124.401, subsection 2A, as enacted in this
21 Act, shall not take effect until January 1, 1997."

22 19. Title page, line 2, by inserting after the
23 word "methamphetamine" the following: "or ephedrine
24 and expanding the types of real property within one
25 thousand feet of which a person who unlawfully
26 possesses a substance is subject to an increased
27 penalty".

28 20. By renumbering, relettering, or redesignating
29 and correcting internal references as necessary.

By COMMITTEE ON JUDICIARY

HURLEY of Fayette, Chairperson

H-5479 FILED MARCH 20, 1996

Adopted 4/1/96 (p. 1136)

SENATE FILE 2154

H-5121

1 Amend Senate File 2154 as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 2, by inserting after line 18 the
4 following:

5 "Sec. _____. Section 124.401A, Code 1995, is amended
6 to read as follows:

7 124.401A ENHANCED PENALTY FOR DISTRIBUTION TO
8 PERSONS ON CERTAIN REAL PROPERTY.

9 In addition to any other penalties provided in this
10 chapter, a person who is eighteen years of age or
11 older who unlawfully distributes or possesses with
12 intent to distribute a substance or counterfeit
13 substance listed in schedule I, II, or III, or a
14 simulated controlled substance represented to be a
15 controlled substance classified in schedule I, II, or
16 III, to another person who is eighteen years of age or
17 older in or on, or within one thousand feet of the
18 real property comprising a public or private
19 elementary or secondary school, ~~or-in-or-on-the-real~~
20 ~~property-comprising-a~~ public park, public swimming
21 pool, public recreation center, or on a marked school
22 bus, may, ~~at-the-judge's-discretion,~~ be sentenced up
23 to an additional term of confinement of five years.

24 Sec. _____. Section 124.401B, Code 1995, is amended
25 to read as follows:

26 124.401B POSSESSION OF CONTROLLED SUBSTANCES ON
27 CERTAIN REAL PROPERTY -- ADDITIONAL PENALTY.

28 In addition to any other penalties provided in this
29 chapter or another chapter, a person who unlawfully
30 possesses a substance listed in schedule I, II, or
31 III, or a simulated controlled substance represented
32 to be a controlled substance classified in schedule I,
33 II, or III, in or on, or within one thousand feet of
34 the real property comprising a public or private
35 elementary or secondary school, ~~or-in-or-on-the-real~~
36 ~~property-comprising-a~~ public park, public swimming
37 pool, public recreation center, or on a marked school
38 bus, may be sentenced to one hundred hours of
39 community service work for a public agency or a
40 nonprofit charitable organization. The court shall
41 provide the offender with a written statement of the
42 terms and monitoring provisions of the community
43 service."

44 2. Title page, line 2, by inserting after the
45 word "methamphetamine" the following: "and expanding
46 the types of real property within one thousand feet of
47 which a person who unlawfully possesses a substance is
48 subject to an increased penalty".

49 3. By renumbering as necessary.

By DISNEY of Polk

H-5121 FILED FEBRUARY 26, 1996

out/order 4/1/96 (p. 1136)

HOUSE AMENDMENT TO
SENATE FILE 2154

S-5614

- 1 Amend Senate File 2154, as amended, passed, and
2 reprinted by the Senate, as follows:
- 3 1. Page 1, by striking lines 1 through 12 and
4 inserting the following:
5 "Sec. ____ . Section 124.212, Code 1995, is amended
6 by adding the following new subsection:
7 NEW SUBSECTION. 5. Unless specifically excepted
8 or listed in another schedule, any material, compound,
9 mixture, or preparation which contains any quantity of
10 ephedrine, including its salts, optical isomers, or
11 salts of optical isomers shall be included in schedule
12 V, but natural herbal ephedra products regulated and
13 marketed as dietary supplements under the federal
14 Dietary Supplement Health and Education Act of 1994,
15 21 U.S.C. § 321, 331, 342, 343, 343-2, 350, and 350b,
16 and 42 U.S.C. § 281 and 287c-11, shall not be included
17 in schedule V. This subsection does not apply to any
18 material, compound, mixture, or preparation which is
19 specifically exempted or excluded under federal drug
20 control law or regulation or by rule of the board. At
21 the request of any person, the board may, pursuant to
22 657 IAC 10.5, exempt by rule any drug product
23 containing ephedrine from being included in this
24 subsection."
- 25 2. Page 1, line 16, by striking the word "and"
26 and inserting the following: "or".
- 27 3. Page 1, line 25, by striking the word "and"
28 and inserting the following: "or".
- 29 4. Page 1, line 25, by striking the word
30 "isomers" and inserting the following: "isomers, or
31 analogs of methamphetamine,".
- 32 5. Page 1, line 27, by striking the word "and"
33 and inserting the following: "or".
- 34 6. Page 1, line 27, by striking the words "of
35 isomers" and inserting the following: "of isomers, or
36 analogs of methamphetamine".
- 37 7. Page 1, line 32, by striking the word "and"
38 and inserting the following: "or".
- 39 8. Page 1, line 32, by striking the words "of
40 isomers" and inserting the following: "of isomers, or
41 analogs of methamphetamine,".
- 42 9. Page 1, line 35, by striking the word "and"
43 and inserting the following: "or".
- 44 10. Page 1, line 35, by striking the words "of
45 isomers" and inserting the following: "of isomers, or
46 analogs of methamphetamine".
- 47 11. Page 2, line 4, by striking the word "and"
48 and inserting the following: "or".
- 49 12. Page 2, lines 5 and 6, by striking the words
50 "or pseudoephedrine, its salts, optical isomers, and

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Page 2

1 salts of optical isomers,".

2 13. Page 2, line 7, by striking the words
3 "methamphetamine or" and inserting the following:
4 "methamphetamine,".

5 14. Page 2, line 8, by inserting after the word
6 "analogs," the following: "or any other controlled
7 substance,".

8 15. Page 2, by striking lines 11 through 18 and
9 inserting the following:

10 "NEW SUBSECTION. 2A. It is unlawful for any
11 person to sell, distribute, or make available any
12 product containing ephedrine, its salts, optical
13 isomers, salts of optical isomers, or analogs of
14 ephedrine, or pseudoephedrine, its salts, optical
15 isomers, or salts of optical isomers, if the person
16 knows, or should know, that the product may be used as
17 a precursor to any illegal substance, an intermediary
18 to any controlled substance, or for a purpose other
19 than a legitimate medicinal use. A person who
20 violates this subsection commits a serious
21 misdemeanor.

22 Sec. _____. Section 124.401A, Code 1995, is amended
23 to read as follows:

24 124.401A ENHANCED PENALTY FOR DISTRIBUTION TO
25 PERSONS ON CERTAIN REAL PROPERTY.

26 In addition to any other penalties provided in this
27 chapter, a person who is eighteen years of age or
28 older who unlawfully distributes or possesses with
29 intent to distribute a substance or counterfeit
30 substance listed in schedule I, II, or III, or a
31 simulated controlled substance represented to be a
32 controlled substance classified in schedule I, II, or
33 III, to another person who is eighteen years of age or
34 older in or on, or within one thousand feet of the
35 real property comprising a public or private
36 elementary or secondary school, ~~or in or on the real~~
37 ~~property comprising a~~ public park, public swimming
38 pool, public recreation center, or on a marked school
39 bus, ~~may, at the judge's discretion,~~ be sentenced up
40 to an additional term of confinement of five years.

41 Sec. _____. Section 124.401B, Code 1995, is amended
42 to read as follows:

43 124.401B POSSESSION OF CONTROLLED SUBSTANCES ON
44 CERTAIN REAL PROPERTY -- ADDITIONAL PENALTY.

45 In addition to any other penalties provided in this
46 chapter or another chapter, a person who unlawfully
47 possesses a substance listed in schedule I, II, or
48 III, or a simulated controlled substance represented
49 to be a controlled substance classified in schedule I,
50 II, or III, in or on, or within one thousand feet of

S-5614

-2-

S-5614

Page 3

1 the real property comprising a public or private
2 elementary or secondary school, ~~or-in-or-on-the-real~~
3 ~~property-comprising-a~~ public park, public swimming
4 pool, public recreation center, or on a marked school
5 bus, may be sentenced to one hundred hours of
6 community service work for a public agency or a
7 nonprofit charitable organization. The court shall
8 provide the offender with a written statement of the
9 terms and monitoring provisions of the community
10 service."

11 16. Page 2, line 23, by striking the words
12 "isomers, and" and inserting the following: "isomers,
13 or".

14 17. Page 2, line 23, by inserting after the words
15 "of isomers," the following: "or analogs of
16 methamphetamine,".

17 18. Page 2, by inserting after line 25 the
18 following:

19 "Sec. ____ . Section 124.212, subsection 5, and
20 subsection 124.401, subsection 2A, as enacted in this
21 Act, shall not take effect until January 1, 1997."

22 19. Title page, line 2, by inserting after the
23 word "methamphetamine" the following: "or ephedrine
24 and expanding the types of real property within one
25 thousand feet of which a person who unlawfully
26 possesses a substance is subject to an increased
27 penalty".

28 20. By renumbering, relettering, or redesignating
29 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

S-5614 FILED APRIL 1, 1996

Senate Consumed 4-8-96 (P. 1256)

SENATE FILE 2154

S-5680

1 Amend the House amendment, S-5614, to Senate File
2 2154, as amended, passed, and reprinted by the Senate,
3 as follows:

4 1. Page 1, line 17, by inserting after the word
5 "any" the following: "liquid, ointment, suppository,
6 or injectable product containing ephedrine, any
7 product containing ephedrine in tablet form packaged
8 in blister packages of no more than two tablets per
9 blister, or any".

By TONY BISIGNANO

S-5680 FILED APRIL 8, 1996
ADOPTED (P. 1256)

SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE FILE 2154
H-5878

1 Amend the House amendment, S-5614, to Senate File
2 2154, as amended, passed, and reprinted by the Senate,
3 as follows:

4 1. Page 1, line 17, by inserting after the word
5 "any" the following: "liquid, ointment, suppository,
6 or injectable product containing ephedrine, any
7 product containing ephedrine in tablet form packaged
8 in blister packages of no more than two tablets per
9 blister, or any".

RECEIVED FROM THE SENATE

H-5878 FILED APRIL 9, 1996
House Refused 4/11/96
(P. 1557)

Senate Inserts 4/12/96
(P. 1359)

REPORT OF THE CONFERENCE COMMITTEE
ON SENATE FILE 2154

To the President of the Senate and the Speaker of the House of Representatives:

We, the undersigned members of the conference committee appointed to resolve the differences between the Senate and the House of Representatives on Senate File 2154, a bill for An Act increasing the penalties for certain offenses involving methamphetamine, respectfully make the following report:

1. That the Senate recedes from its amendment, H-5878.
2. That the House recedes from its amendment, S-5614.
3. That Senate File 2154, as amended, passed and reprinted by the Senate, is amended as follows:

1. By striking everything after the enacting clause and inserting the following:

"Section 1. Section 124.401, subsection 1, paragraph a, subparagraph (2), subparagraph subdivision (d), Code 1995, is

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amended to read as follows:

(d) Methamphetamine, its salts, isomers, or salts of isomers.

(e) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subparagraph subdivisions (a) through ~~(e)~~ (d).

Sec. 2. Section 124.401, subsection 1, paragraph b, Code 1995, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (7) More than five grams but not more than five kilograms of methamphetamine, its salts, isomers, or salts of isomers, or analogs of methamphetamine, or any compound, mixture, or preparation which contains any quantity or detectable amount of methamphetamine, its salts, isomers, or salts of isomers, or analogs of methamphetamine.

Sec. 3. Section 124.401, subsection 1, paragraph c, Code 1995, is amended by adding the following new subparagraph (6) and renumbering the subsequent subparagraph:

NEW SUBPARAGRAPH. (6) Five grams or less of methamphetamine, its salts, isomers, or salts of isomers, or analogs of methamphetamine, or any compound, mixture, or preparation which contains any quantity or detectable amount of methamphetamine, its salts, isomers, or salts of isomers, or analogs of methamphetamine.

Sec. 4. Section 124.401, Code 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 2A. It is unlawful for any person to sell, distribute, or make available any product containing ephedrine, its salts, optical isomers, salts of optical isomers, or analogs of ephedrine, or pseudoephedrine, its salts, optical isomers, salts of optical isomers, or analogs of pseudoephedrine, if the person knows, or should know, that the product may be used as a precursor to any illegal substance or an intermediary to any controlled substance. A person who violates this subsection commits a serious misdemeanor.

NEW SUBSECTION. 2B. It is unlawful for any person to

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possess any product containing ephedrine, its salts, optical isomers, salts of optical isomers, or analogs of ephedrine, or pseudoephedrine, its salts, optical isomers, salts of optical isomers, or analogs of pseudoephedrine, with the intent to use the product as a precursor to any illegal substance or an intermediary to any controlled substance. A person who violates this subsection commits a class "D" felony.

Sec. 5. Section 124.401A, Code 1995, is amended to read as follows:

124.401A ENHANCED PENALTY FOR DISTRIBUTION TO PERSONS ON CERTAIN REAL PROPERTY.

In addition to any other penalties provided in this chapter, a person who is eighteen years of age or older who unlawfully distributes or possesses with intent to distribute a substance or counterfeit substance listed in schedule I, II, or III, or a simulated controlled substance represented to be a controlled substance classified in schedule I, II, or III, to another person who is eighteen years of age or older in or on, or within one thousand feet of the real property comprising a public or private elementary or secondary school, ~~or-in-or-on-the-real-property-comprising-a~~ public park, public swimming pool, public recreation center, or on a marked school bus, ~~may, at the judge's discretion,~~ be sentenced up to an additional term of confinement of five years.

Sec. 6. Section 124.401B, Code 1995, is amended to read as follows:

124.401B POSSESSION OF CONTROLLED SUBSTANCES ON CERTAIN REAL PROPERTY -- ADDITIONAL PENALTY.

In addition to any other penalties provided in this chapter or another chapter, a person who unlawfully possesses a substance listed in schedule I, II, or III, or a simulated controlled substance represented to be a controlled substance classified in schedule I, II, or III, in or on, or within one thousand feet of the real property comprising a public or private elementary or secondary school, ~~or-in-or-on-the-real-property-comprising a~~ public park, public swimming pool,

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public recreation center, or on a marked school bus, may be sentenced to one hundred hours of community service work for a public agency or a nonprofit charitable organization. The court shall provide the offender with a written statement of the terms and monitoring provisions of the community service.

Sec. 7. Section 232.22, subsection 1, paragraph e, subparagraph (3), Code Supplement 1995, is amended to read as follows:

(3) A mixture or substance containing methamphetamine, its salts, isomers, and or salts of isomers, or analogs of methamphetamine, and if the act was committed by an adult, it would be a violation of section 124.401, subsection 17 ~~paragraph-"e",-subparagraph-(6)~~.

Sec. 8. EPHEDRINE STUDY. The board of pharmacy examiners and the department of public safety shall conduct a study of uses not approved by the United States food and drug administration, and uses as a precursor in the production of illegal substances, of ephedrine, its salts, optical isomers, salts of optical isomers, or analogs of ephedrine, or pseudoephedrine, its salts, optical isomers, salts of optical isomers, or analogs of pseudoephedrine. The study shall include a review of regulations in other states relating to, but not limited to, inappropriate or illegal uses of ephedrine, its salts, optical isomers, salts of optical isomers, or analogs of ephedrine, or pseudoephedrine, its salts, optical isomers, salts of optical isomers, or analogs of pseudoephedrine. The secretary of the board of pharmacy examiners and the commissioner of public safety shall report the findings and recommendations of the study to the general assembly on or before January 2, 1997."

2. Title page, line 1, by inserting after the word "Act" the following: "relating to certain drug offenses and penalties by".

3. Title page, line 2, by inserting after the word "methamphetamine" the following: ", creating new offenses involving ephedrine, and expanding the types of real property

CCS-2154.2

Page 5

within one thousand feet of which a person who unlawfully possesses a substance is subject to an increased penalty".

ON THE PART OF THE SENATE:

TONY BISIGNANO, Chairperson
RANDAL J. GIANNETTO
MARY NEUHAUSER
O. GENE MADDOX
LYLE E. ZIEMAN

ON THE PART OF THE HOUSE:

KEN VEENSTRA, Chairperson
BRIAN COON
DAN BODDICKER
MICHAEL MORELAND
ROBERT J. OSTERHAUS

CCS-2154.2 FILED APRIL 17, 1996
ADOPTED

adopted
4-18-96
(p. 1737)

4-17-96
(p. 1426)

*Bisignano
Diannetto
Vilsack
Radfern
Bartz*

SSB. 2083
Judiciary

Succeeded By
SF/HF 2154

SENATE/HOUSE FILE _____
BY (PROPOSED GOVERNOR'S BILL)

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

A BILL FOR

1 An Act increasing the penalties for certain offenses involving
2 methamphetamine.

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

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1 Section 1. Section 124.401, subsection 1, paragraph a,
2 subparagraph (2), subparagraph subdivision (d), Code 1995, is
3 amended to read as follows:

4 (d) Methamphetamine, its salts, isomers, and salts of
5 isomers.

6 (e) Any compound, mixture, or preparation which contains
7 any quantity of any of the substances referred to in
8 subparagraph subdivisions (a) through ~~(e)~~ (d).

9 Sec. 2. Section 124.401, subsection 1, paragraph b, Code
10 1995, is amended by adding the following new subparagraph:

11 NEW SUBPARAGRAPH. (7) More than five grams but not more
12 than five kilograms of methamphetamine, its salts, isomers,
13 and salts of isomers or any compound, mixture, or preparation
14 which contains any quantity or detectable amount of
15 methamphetamine, its salts, isomers, and salts of isomers.

16 Sec. 3. Section 124.401, subsection 1, paragraph c, Code
17 1995, is amended by adding the following new subparagraph (6)
18 and renumbering the subsequent subparagraph:

19 NEW SUBPARAGRAPH. (6) Five grams or less of
20 methamphetamine, its salts, isomers, and salts of isomers or
21 any compound, mixture, or preparation which contains any
22 quantity or detectable amount of methamphetamine, its salts,
23 isomers, and salts of isomers.

24 Sec. 4. Section 232.22, subsection 1, paragraph e,
25 subparagraph (3), Code Supplement 1995, is amended to read as
26 follows:

27 (3) A mixture or substance containing methamphetamine, its
28 salts, isomers, and salts of isomers, and if the act was
29 committed by an adult, it would be a violation of section
30 124.401, subsection 1, ~~paragraph "e",~~ ~~subparagraph (6).~~

31 EXPLANATION

32 This bill increases the penalties for the manufacture,
33 delivery, or possession with intent to manufacture or deliver
34 certain amounts of methamphetamine or any compound, mixture,
35 or preparation containing methamphetamine, as well as the

1 penalties for conspiracy to commit these offenses. Under
2 current law, the offenses are class "C" felonies punishable by
3 a term of imprisonment not to exceed 10 years and a fine of
4 not less than \$1,000 or more than \$50,000, regardless of the
5 amount of methamphetamine involved in the offense.

6 Section 1 of the bill provides that an offense involving
7 more than five kilograms of methamphetamine or a compound
8 containing methamphetamine is a class "B" felony punishable by
9 a term of imprisonment not to exceed 50 years and a fine of
10 not more than \$1,000,000. Because the offense is created in
11 section 124.401, subsection 1, paragraph "a", defendants
12 awaiting judgment and sentencing following a plea or verdict
13 and defendants appealing a conviction shall not be admitted to
14 bail pursuant to section 811.1.

15 Section 2 of the bill provides that an offense involving
16 more than five grams but not more than five kilograms of
17 methamphetamine or a compound containing methamphetamine is a
18 class "B" felony punishable by a term of imprisonment not to
19 exceed 25 years and a fine of not less than \$5,000 or more
20 than \$100,000.

21 Section 3 of the bill provides that an offense involving
22 five grams or less of methamphetamine or a compound containing
23 methamphetamine is a class "C" felony punishable by a term of
24 imprisonment not to exceed 10 years and a fine of not less
25 than \$1,000 or more than \$50,000. This is the current penalty
26 for the offense, regardless of the amount of methamphetamine
27 involved.

28 Section 4 of the bill makes a corresponding change to
29 reflect the new offenses in a provision pertaining to
30 placement in juvenile detention.

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SENATE FILE 2154

AN ACT

RELATING TO CERTAIN DRUG OFFENSES AND PENALTIES BY INCREASING THE PENALTIES FOR CERTAIN OFFENSES INVOLVING METHAMPHETAMINE, CREATING NEW OFFENSES INVOLVING EPHEDRINE, AND EXPANDING THE TYPES OF REAL PROPERTY WITHIN ONE THOUSAND FEET OF WHICH A PERSON WHO UNLAWFULLY POSSESSES A SUBSTANCE IS SUBJECT TO AN INCREASED PENALTY.

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

Section 1. Section 124.401, subsection 1, paragraph a, subparagraph (2), subparagraph subdivision (d), Code 1995, is amended to read as follows:

(d) Methamphetamine, its salts, isomers, or salts of isomers.

(e) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subparagraph subdivisions (a) through (c) (d).

Sec. 2. Section 124.401, subsection 1, paragraph b, Code 1995, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (7) More than five grams but not more than five kilograms of methamphetamine, its salts, isomers, or salts of isomers, or analogs of methamphetamine, or any compound, mixture, or preparation which contains any quantity or detectable amount of methamphetamine, its salts, isomers, or salts of isomers, or analogs of methamphetamine.

Sec. 3. Section 124.401, subsection 1, paragraph c, Code 1995, is amended by adding the following new subparagraph (6) and renumbering the subsequent subparagraph:

NEW SUBPARAGRAPH. (6) Five grams or less of methamphetamine, its salts, isomers, or salts of isomers, or analogs of methamphetamine, or any compound, mixture, or preparation which contains any quantity or detectable amount

of methamphetamine, its salts, isomers, or salts of isomers, or analogs of methamphetamine.

Sec. 4. Section 124.401, Code 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 2A. It is unlawful for any person to sell, distribute, or make available any product containing ephedrine, its salts, optical isomers, salts of optical isomers, or analogs of ephedrine, or pseudoephedrine, its salts, optical isomers, salts of optical isomers, or analogs of pseudoephedrine, if the person knows, or should know, that the product may be used as a precursor to any illegal substance or an intermediary to any controlled substance. A person who violates this subsection commits a serious misdemeanor.

NEW SUBSECTION. 2B. It is unlawful for any person to possess any product containing ephedrine, its salts, optical isomers, salts of optical isomers, or analogs of ephedrine, or pseudoephedrine, its salts, optical isomers, salts of optical isomers, or analogs of pseudoephedrine, with the intent to use the product as a precursor to any illegal substance or an intermediary to any controlled substance. A person who violates this subsection commits a class "D" felony.

Sec. 5. Section 124.401A, Code 1995, is amended to read as follows:

124.401A ENHANCED PENALTY FOR DISTRIBUTION TO PERSONS ON CERTAIN REAL PROPERTY.

In addition to any other penalties provided in this chapter, a person who is eighteen years of age or older who unlawfully distributes or possesses with intent to distribute a substance or counterfeit substance listed in schedule I, II, or III, or a simulated controlled substance represented to be a controlled substance classified in schedule I, II, or III, to another person who is eighteen years of age or older in or on, or within one thousand feet of the real property comprising a public or private elementary or secondary school,

~~or-in-or-on-the-real-property-comprising-a~~ public park, public swimming pool, public recreation center, or on a marked school bus, ~~may-at-the-judge's-discretion,~~ be sentenced up to an additional term of confinement of five years.

Sec. 6. Section 124.401B, Code 1995, is amended to read as follows:

124.401B POSSESSION OF CONTROLLED SUBSTANCES ON CERTAIN REAL PROPERTY -- ADDITIONAL PENALTY.

In addition to any other penalties provided in this chapter or another chapter, a person who unlawfully possesses a substance listed in schedule I, II, or III, or a simulated controlled substance represented to be a controlled substance classified in schedule I, II, or III, in or on, or within one thousand feet of the real property comprising a public or private elementary or secondary school, ~~or-in-or-on-the-real-property-comprising-a~~ public park, public swimming pool, public recreation center, or on a marked school bus, may be sentenced to one hundred hours of community service work for a public agency or a nonprofit charitable organization. The court shall provide the offender with a written statement of the terms and monitoring provisions of the community service.

Sec. 7. Section 232.22, subsection 1, paragraph e, subparagraph (3), Code Supplement 1995, is amended to read as follows:

(3) A mixture or substance containing methamphetamine, its salts, isomers, and or salts of isomers, or analogs of methamphetamine, and if the act was committed by an adult, it would be a violation of section 124.401, subsection 1, ~~paragraph-"e"-subparagraph-(6).~~

Sec. 8. EPHEDRINE STUDY. The board of pharmacy examiners and the department of public safety shall conduct a study of uses not approved by the United States food and drug administration, and uses as a precursor in the production of illegal substances, of ephedrine, its salts, optical isomers, salts of optical isomers, or analogs of ephedrine, or

pseudoephedrine, its salts, optical isomers, salts of optical isomers, or analogs of pseudoephedrine. The study shall include a review of regulations in other states relating to, but not limited to, inappropriate or illegal uses of ephedrine, its salts, optical isomers, salts of optical isomers, or analogs of ephedrine, or pseudoephedrine, its salts, optical isomers, salts of optical isomers, or analogs of pseudoephedrine. The secretary of the board of pharmacy examiners and the commissioner of public safety shall report the findings and recommendations of the study to the general assembly on or before January 2, 1997.

LEONARD L. BOSWELL
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2154, Seventy-sixth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved 4/24, 1996

TERRY E. BRANSTAD
Governor