

FEB 4 2004
Place On Calendar

HOUSE FILE 2150
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 2014)

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

A BILL FOR

1 An Act establishing a child endangerment offense for permitting
2 the presence of a child or minor at a location where a
3 controlled substance manufacturing or product possession
4 violation occurs and providing a penalty.

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

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HF 2150

HOUSE FILE 2150

S-5090

1 Amend House File 2150, as passed by the House, as
2 follows:
3 1. Page 1 by inserting before line 13 the
4 following:
5 "However, it is an affirmative defense to a
6 prosecution under this paragraph "g" that the person
7 had reasonable grounds to believe that any action to
8 stop the endangering activity or to leave the child's
9 or minor's home would result in substantial bodily
10 harm to the person or to the child or minor."

By HERMAN C. QUIRMBACH

S-5090 FILED MARCH 15, 2004
LOST

1 Section 1. Section 702.11, subsection 2, paragraph e, Code
2 Supplement 2003, is amended to read as follows:

3 e. Child endangerment ~~resulting-in-bodily-injury-to-a~~
4 ~~child-or-a-minor-in-violation-of~~ subject to penalty under
5 section 726.6, subsection 5.

6 Sec. 2. Section 726.6, subsection 1, Code 2003, is amended
7 by adding the following new paragraph:

8 NEW PARAGRAPH. g. Knowingly permits a child or minor to
9 be present at a location where a controlled substance is
10 manufactured in violation of section 124.401, subsection 1, or
11 where a product is possessed in violation of section 124.401,
12 subsection 4.

13 Sec. 3. Section 726.6, subsections 5 and 6, Code 2003, are
14 amended to read as follows:

15 5. A person who commits child endangerment resulting in
16 bodily injury to a child or minor or child endangerment in
17 violation of subsection 1, paragraph "g" that does not result
18 in a serious injury, is guilty of a class "D" felony.

19 6. A person who commits child endangerment that is not
20 ~~resulting-in-bodily-injury-or-serious-injury-to-a-child-or~~
21 ~~minor~~ subject to penalty under subsection 4 or 5 is guilty of
22 an aggravated misdemeanor.

23 EXPLANATION

24 This bill establishes a child endangerment offense for
25 permitting the presence of a child or minor at a location
26 where a controlled substance manufacturing or product
27 possession violation occurs, but the violation does not result
28 in a serious injury to the child.

29 The child endangerment offense occurs when a child or a
30 minor is permitted to be present at a location where a
31 controlled substance is manufactured in violation of Code
32 section 124.401, subsection 1, or where a product is possessed
33 with the intent to manufacture a controlled substance in
34 violation of Code section 124.401, subsection 4. Code section
35 124.401 is part of the offenses and penalties division of the

1 controlled substances chapter. The referenced subsections
2 include defined terms such as "manufacture" and a threshold
3 for the amounts of controlled substances for which possession
4 triggers a violation.

5 The bill classifies the new child endangerment offense as a
6 class "D" felony, punishable by confinement for no more than
7 five years and a fine of at least \$750 but not more than
8 \$7,500.

9 The bill includes conforming amendments to Code sections
10 702.11 and 726.6 to provide that the new offense is not a
11 forcible felony.

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HOUSE FILE 2150

S-5035

1 Amend House File 2150, as passed by the House, as
2 follows:
3 1. Page 1, by striking lines 8 through 12 and
4 inserting the following:
5 "NEW PARAGRAPH. g. Permits a child or minor to be
6 present at a location where the person knows that
7 amphetamine, its salts, isomers, and salts of isomers,
8 or methamphetamine, its salts, isomers, or salts of
9 isomers, is being manufactured in violation of section
10 124.401, subsection 1, or where the person knows a
11 product is possessed in violation of section 124.401,
12 subsection 4."

By LARRY McKIBBEN

S-5035 FILED MARCH 2, 2004

HOUSE FILE 2150

S-5014

1 Amend House File 2150, as passed by the House, as
2 follows:
3 1. Page 1, by inserting before line 1 the
4 following:
5 "Section 1. Section 124.401C, subsection 1, Code
6 2003, is amended to read as follows:
7 1. In addition to any other penalties provided in
8 this chapter, a person who is eighteen years of age or
9 older and who either directly or by extraction from
10 natural substances, or independently by means of
11 chemical processes, or both, unlawfully manufactures
12 methamphetamine, its salts, isomers, and salts of its
13 isomers in the presence of a minor shall be sentenced
14 up to an additional term of confinement of five years.
15 However, the additional term of confinement shall not
16 be imposed on a person who has been convicted and
17 sentenced for a child endangerment offense under
18 section 726.6, subsection 1, paragraph "g", arising
19 from the same facts."
20 2. By renumbering as necessary.

By LARRY McKIBBEN

S-5014 FILED FEBRUARY 19, 2004

HOUSE FILE 2150

S-5052

1 Amend House File 2150, as passed by the House, as
2 follows:
3 1. Page 1, line 9, by striking the words "a
4 controlled substance" and inserting the following:
5 "amphetamine, its salts, isomers, or salts of isomers,
6 or methamphetamine, its salts, isomers, or salts of
7 isomers".

By LARRY McKIBBEN

S-5052 FILED MARCH 9, 2004

SENATE AMENDMENT TO
HOUSE FILE 2150

H-8245

1 Amend House File 2150, as passed by the House, as
2 follows:

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

5 "Section 1. Section 124.401C, subsection 1, Code
6 2003, is amended to read as follows:

7 1. In addition to any other penalties provided in
8 this chapter, a person who is eighteen years of age or
9 older and who either directly or by extraction from
10 natural substances, or independently by means of
11 chemical processes, or both, unlawfully manufactures
12 methamphetamine, its salts, isomers, and salts of its
13 isomers in the presence of a minor shall be sentenced
14 up to an additional term of confinement of five years.
15 However, the additional term of confinement shall not
16 be imposed on a person who has been convicted and
17 sentenced for a child endangerment offense under
18 section 726.6, subsection 1, paragraph "g", arising
19 from the same facts."

20 2. Page 1, line 9, by striking the words "a
21 controlled substance" and inserting the following:
22 "amphetamine, its salts, isomers, or salts of isomers,
23 or methamphetamine, its salts, isomers, or salts of
24 isomers".

25 3. By renumbering, relettering, or redesignating
26 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-8245 FILED MARCH 15, 2004

HOUSE FILE 2150

AN ACT

ESTABLISHING A CHILD ENDANGERMENT OFFENSE FOR PERMITTING THE PRESENCE OF A CHILD OR MINOR AT A LOCATION WHERE A CONTROLLED SUBSTANCE MANUFACTURING OR PRODUCT POSSESSION VIOLATION OCCURS AND PROVIDING A PENALTY.

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

Section 1. Section 124.401C, subsection 1, Code 2003, is amended to read as follows:

1. In addition to any other penalties provided in this chapter, a person who is eighteen years of age or older and who either directly or by extraction from natural substances, or independently by means of chemical processes, or both, unlawfully manufactures methamphetamine, its salts, isomers, and salts of its isomers in the presence of a minor shall be sentenced up to an additional term of confinement of five years. However, the additional term of confinement shall not be imposed on a person who has been convicted and sentenced for a child endangerment offense under section 726.6, subsection 1, paragraph "g", arising from the same facts.

Sec. 2. Section 702.11, subsection 2, paragraph e, Code Supplement 2003, is amended to read as follows:

e. Child endangerment ~~resulting-in-bodily-injury-to-a child-or-a-minor-in-violation-of~~ subject to penalty under section 726.6, subsection 5.

Sec. 3. Section 726.6, subsection 1, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. Knowingly permits a child or minor to be present at a location where amphetamine, its salts, isomers, or salts of isomers, or methamphetamine, its salts, isomers, or salts of isomers is manufactured in violation of

section 124.401, subsection 1, or where a product is possessed in violation of section 124.401, subsection 4.

Sec. 4. Section 726.6, subsections 5 and 6, Code 2003, are amended to read as follows:

5. A person who commits child endangerment resulting in bodily injury to a child or minor or child endangerment in violation of subsection 1, paragraph "g" that does not result in a serious injury, is guilty of a class "D" felony.

6. A person who commits child endangerment that is not resulting-in-bodily-injury-or-serious-injury-to-a-child-or-minor subject to penalty under subsection 4 or 5 is guilty of an aggravated misdemeanor.

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 2150, Eightieth General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved _____, 2004

THOMAS J. VILSACK
Governor