

FEB 16 2004
Place On Calendar

HOUSE FILE 2259
BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HSB 606)

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

A BILL FOR

1 An Act relating to the selling and purchasing of products
2 containing pseudoephedrine, and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2259

HOUSE FILE 2259

H-8034

1 Amend House File 2259 as follows:
2 1. Page 3, by inserting after line 2, the
3 following:
4 "A simple misdemeanor theft of more than two
5 packages containing pseudoephedrine as the products'
6 sole active ingredient which are in liquid form does
7 not constitute a serious misdemeanor under this
8 section."

By BAUDLER of Adair

H-8034 FILED FEBRUARY 17, 2004

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

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

7 2. A retailer who offers for sale a product containing
8 pseudoephedrine as the product's sole active ingredient shall
9 display and offer such product for sale, except as otherwise
10 provided, behind a counter where the public is not permitted
11 or within twenty feet of a counter which allows the attendant
12 to view the products in an unobstructed manner. A retailer
13 may display or offer for sale without restriction a product
14 containing pseudoephedrine as the sole active ingredient if
15 the product is displayed using any type of antitheft device
16 system including but not limited to an electronic antitheft
17 device system that utilizes a product tag and detection alarm
18 which prevents the theft of the product.

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

23 A person commits a simple misdemeanor if the person
24 purchases in a single transaction more than two packages
25 containing pseudoephedrine as the products' sole active
26 ingredient.

27 4. An employee of a retailer who sells packages containing
28 pseudoephedrine or a person who purchases packages containing
29 pseudoephedrine in violation of subsection 1 commits a simple
30 misdemeanor, punishable as a scheduled violation under section
31 805.8C, subsection 4, paragraph "a". If a citation is issued
32 for a violation of subsection 1, the citation shall be issued
33 to both the employee who sells the packages and the purchaser.

34 5. For each violation of subsection 1, 2, or 3 by a
35 retailer, the retailer shall be assessed a scheduled fine

1 under section 805.8C, subsection 4, paragraph "b".

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

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

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

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

18 9. This section shall not apply to a package containing
19 pseudoephedrine as the product's sole active ingredient which
20 is in liquid form.

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

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

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

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

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

1 single transaction more than two packages containing
2 pseudoephedrine as the products' sole active ingredient.

3 The bill provides that if a person sells or purchases a
4 product containing pseudoephedrine in violation of the bill,
5 the retailer shall be assessed a civil penalty punishable as a
6 scheduled fine in the amount of \$100 for each criminal
7 violation. Under the bill, if the retailer also displays a
8 product containing pseudoephedrine in a manner which violates
9 the bill, the retailer shall be assessed a \$100 civil penalty.

10 The bill provides that any enforcement action under the
11 bill be in magistrate court.

12 The bill provides that all civil penalty moneys collected
13 by the clerk of the district court shall be distributed to the
14 state or political subdivision of the state enforcing the
15 bill.

16 The bill enhances the penalty for a person who commits a
17 simple misdemeanor theft to a serious misdemeanor theft if the
18 person commits a theft of more than two packages containing
19 pseudoephedrine as their sole active ingredient or more than
20 two packages containing pseudoephedrine in combination with
21 other active ingredients.

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**Fiscal Services Division
Legislative Services Agency
Fiscal Note**

HF 2259 - Pseudoephedrine, Restricted Access I (LSB 6168 HV)
Analyst: Jennifer Acton (Phone: (515) 281-7846) (jennifer.acton@legis.state.ia.us)
Fiscal Note Version — New
Requested by Representative Clel Baudler

Description

House File 2259 relates to selling and purchasing of products containing pseudoephedrine and providing penalties.

Assumptions

1. Charge, conviction, and sentencing patterns and trends will not change over the projection period.
2. Prisoner length of stay, revocation rates, and other correction policies and practices will not change over the projection period.
3. The law will become effective July 1, 2004. A lag effect of six months is assumed, from the law's effective date to the date of first entry of affected offenders into the correctional system.
4. In FY 2003, the jail incarceration rate for a simple misdemeanor was 12.3% and the average jail days imposed was eight days.
5. In FY 2003, the jail incarceration rate for a serious misdemeanor was 32.8% and the average jail days imposed was 47 days. For a serious misdemeanor property offense, the average prison incarceration rate was 1.5% and the average time served in prison was eight months.
6. If a person purchases more than two packages of pseudoephedrine as the sole ingredient in a single transaction, the person commits a simple misdemeanor punishable by a scheduled fine of \$100. If an employee sells more than two packages of psuedoephedrine as the sole ingredient to one person, the employee commits a simple misdemeanor punishable by a scheduled fine of \$100.
7. House File 2259 enhances the penalty for a person who commits a theft of more than two packages containing pseudoephedrine as the sole active ingredient or more than two packages containing pseudoephedrine in combination with other active ingredients to a serious misdemeanor.
8. House File 2259 requires the cases to be heard by a magistrate; however, some counties do not have magistrates.

Correctional Impact

The simple misdemeanor punishable by a scheduled violation of \$100 is not anticipated to have a significant correctional impact due to the fine-only penalties set forth in HF 2259. There is no readily available information to determine how many charges/convictions for these offenses would occur annually.

The serious misdemeanor for theft would have a correctional impact to the extent that such theft occurs, since it is raising the penalty from a simple misdemeanor to a serious misdemeanor. For one person convicted of a serious misdemeanor offense, the jail stay is 47 days, the average prison stay is 8 months, the average time on parole is 10 months, and the average stay on probation is 14 months.

Fiscal Impact

The fiscal impact for HF 2259 cannot be determined since it is unknown how many people will be convicted of theft of pseudoephedrine.

The fiscal impact for a serious misdemeanor conviction for theft for one person ranges from approximately \$100 to \$5,000.

The fiscal impact for a serious misdemeanor for theft would increase county jail expenditures by approximately \$600 per person.

Sources

Department of Human Rights, Criminal and Juvenile Justice Planning Division
Judicial Branch

Dennis C Prouty

February 17, 2004

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

HOUSE FILE 2259

BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HSB 606)

(As Amended and Passed by the House February 19, 2004)

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the selling and purchasing of products
2 containing pseudoephedrine, and providing penalties.

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

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House Amendments _____

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

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

7 2. A retailer who offers for sale a product containing
8 pseudoephedrine as the product's sole active ingredient shall
9 display and offer such product for sale, except as otherwise
10 provided, behind a counter where the public is not permitted
11 or within twenty feet of a counter which allows the attendant
12 to view the products in an unobstructed manner. A retailer
13 may display or offer for sale without restriction a product
14 containing pseudoephedrine as the sole active ingredient if
15 the product is displayed using any type of antitheft device
16 system including but not limited to an electronic antitheft
17 device system that utilizes a product tag and detection alarm
18 which prevents the theft of the product.

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

23 A person commits a simple misdemeanor if the person
24 purchases in a single transaction more than two packages
25 containing pseudoephedrine as the products' sole active
26 ingredient.

27 4. An employee of a retailer who sells packages containing
28 pseudoephedrine or a person who purchases packages containing
29 pseudoephedrine in violation of subsection 1 commits a simple
30 misdemeanor, punishable as a scheduled violation under section
31 805.8C, subsection 4, paragraph "a". If a citation is issued
32 for a violation of subsection 1, the citation shall be issued
33 to both the employee who sells the packages and the purchaser.

34 5. For each violation of subsection 1, 2, or 3 by a
35 retailer, the retailer shall be assessed a scheduled fine

1 under section 805.8C, subsection 4, paragraph "b".

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

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

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

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

18 9. This section shall not apply to a package containing
19 pseudoephedrine as the product's sole active ingredient which
20 is in liquid form.

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

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

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

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

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

1 2. Pseudoephedrine in combination with other active
2 ingredients.

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

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

9 NEW SUBSECTION. 4. a. PSEUDOEPHEDRINE SALES VIOLATIONS.

10 For a violation of section 126.23A, subsection 1, the
11 scheduled fine is one hundred dollars.

12 b. For a violation of section 126.23A, subsection 1, 2, or
13 3, by a retailer, the scheduled fine is one hundred dollars,
14 and is a civil penalty and the criminal penalty surcharge
15 under section 911.2 shall not be added to the penalty, and the
16 court costs pursuant to section 805.9, subsection 6, shall not
17 be imposed.

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S-5151

1 Amend House File 2259, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 1, by striking lines 23 through 26, and
4 inserting the following:

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

8 2. Page 2, by striking lines 18 through 20 and
9 inserting the following:

10 "9. This section shall not apply to the following:

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

14 b. Any package of a product containing
15 pseudoephedrine as the product's sole active
16 ingredient which is primarily intended for
17 administration to children under twelve years of age
18 according to the label, regardless of whether the
19 product is in liquid or solid form.

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

By COMMITTEE ON JUDICIARY
DONALD B. REDFERN, Chairperson

S-5151 FILED MARCH 29, 2004

SENATE AMENDMENT TO
HOUSE FILE 2259

H-8419

1 Amend House File 2259, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 1, by striking lines 23 through 26, and
4 inserting the following:

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

8 2. Page 2, by striking lines 18 through 20 and
9 inserting the following:

10 "9. This section shall not apply to the following:

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

14 b. Any package of a product containing
15 pseudoephedrine as the product's sole active
16 ingredient which is primarily intended for
17 administration to children under twelve years of age
18 according to the label, regardless of whether the
19 product is in liquid or solid form.

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

RECEIVED FROM THE SENATE

H-8419 FILED APRIL 6, 2004

Baudler, ch
Eichhorn
Chambers
McCarthy
Heddens

St SF **0** ded By **2259** HSB 606
PUBLIC SAFETY

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
PUBLIC SAFETY BILL BY
CHAIRPERSON BAUDLER)

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

A BILL FOR

1 An Act relating to the selling and purchasing of products
2 containing pseudoephedrine, and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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

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

7 2. A retailer who offers for sale a product containing
8 pseudoephedrine as the product's sole active ingredient shall
9 display and offer such product for sale, except as otherwise
10 provided, behind a counter where the public is not permitted
11 or within twenty feet of a counter which allows the attendant
12 to view the products in an unobstructed manner. A retailer
13 may display without restriction a product containing
14 pseudoephedrine as the sole active ingredient if the product
15 is displayed using an electronic antitheft device system that
16 utilizes a product tag and detection alarm which prevents the
17 theft of the product.

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

22 A person commits a simple misdemeanor if the person
23 purchases in a single transaction more than two products
24 containing pseudoephedrine as the products' sole active
25 ingredient.

26 4. A person who violates subsection 1 commits a simple
27 misdemeanor, punishable as a scheduled violation under section
28 805.8C, subsection 4.

29 5. For each violation of subsection 1, 2, or 3 by a
30 retailer, the retailer shall be assessed a civil penalty in
31 the amount of one hundred dollars.

32 6. a. Enforcement of any civil penalties in this section
33 by the state or a political subdivision of the state shall be
34 in district court.

35 b. Enforcement of this section shall also be implemented

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1 uniformly throughout the state. For the purpose of uniform
2 implementation, the provisions of this section shall supersede
3 any local ordinance or regulation which is inconsistent with
4 or conflicts with the provisions of this section.

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

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

12 Sec. 2. Section 602.8105, subsection 2, paragraph e, Code
13 Supplement 2003, is amended to read as follows:

14 e. For filing and docketing a civil action pursuant to
15 section 126.23A, twenty-five dollars.

16 e- f. Other fees provided by law.

17 Sec. 3. Section 602.8105, Code Supplement 2003, is amended
18 by adding the following new subsection:

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

25 Sec. 4. NEW SECTION. 714.7C THEFT OF PSEUDOEPHEDRINE --
26 ENHANCEMENT.

27 Notwithstanding section 714.2, subsection 5, a person who
28 commits a simple misdemeanor theft of more than two products
29 containing pseudoephedrine as the products' sole active
30 ingredient commits a serious misdemeanor.

31 Sec. 5. Section 805.8C, Code 2003, is amended by adding
32 the following new subsection:

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

EXPLANATION

1

2 This bill relates to the selling and purchasing of products
3 containing pseudoephedrine.

4 The bill provides that a retailer shall not sell, and a
5 person shall not purchase, in a single transaction more than
6 two products containing pseudoephedrine as the products' sole
7 active ingredient. A person who sells or purchases more than
8 two products containing pseudoephedrine in a single
9 transaction commits a simple misdemeanor punishable by a
10 scheduled fine of \$100.

11 The bill provides that a retailer who offers for sale a
12 product containing pseudoephedrine as the product's sole
13 active ingredient shall display and offer such product for
14 sale, except as otherwise provided, behind a counter where the
15 public is not permitted or within 20 feet of a counter which
16 allows the attendant to view the product in an unobstructed
17 manner. The bill provides that a retailer may display without
18 restriction a product containing pseudoephedrine as the sole
19 active ingredient if the product is displayed using an
20 electronic antitheft device system.

21 The bill provides that a retailer shall display a notice
22 stating that it is a simple misdemeanor to purchase in a
23 single transaction more than two products containing
24 pseudoephedrine as the products' sole active ingredient.

25 The bill provides that if a person sells or purchases a
26 product containing pseudoephedrine in violation of the bill,
27 the retailer shall be assessed a civil penalty in the amount
28 of \$100 for each criminal violation. Under the bill, if the
29 retailer also displays a product containing pseudoephedrine in
30 a manner which violates the bill, the retailer shall be
31 assessed a \$100 civil penalty.

32 The bill provides that any civil enforcement action under
33 the bill be in district court. The bill provides that the
34 filing and docketing fees be set at \$25.

35 The bill provides that all civil penalty moneys collected

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1 by the clerk of the district court shall be distributed to the
2 state or political subdivision of the state enforcing the
3 bill.

4 The bill enhances the penalty for a person who commits a
5 simple misdemeanor theft to a serious misdemeanor theft if the
6 person commits a theft of more than two products containing
7 pseudoephedrine as their sole active ingredient.

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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 _____, 2004

THOMAS J. VILSACK
Governor