

House File 2265 - Introduced

HOUSE FILE _____
BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HF 852)
(SUCCESSOR TO HSB 216)

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

A BILL FOR

1 An Act relating to the sale of a pseudoephedrine product by a
2 pharmacy or retailer, and providing penalties and contingent
3 applicability.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 6498HZ 82
6 jm/rj/14

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1 1 Section 1. Section 124.212, subsection 4, paragraph c,
1 2 Code Supplement 2007, is amended to read as follows:
1 3 c. Pseudoephedrine. A person shall present a
1 4 government=issued photo identification card when purchasing a
1 5 pseudoephedrine product from a pharmacy. A person shall not
1 6 purchase ~~more than seven thousand five hundred milligrams of~~
~~1 7 pseudoephedrine, either separately or collectively, within a~~
~~1 8 thirty-day period a quantity of pseudoephedrine in violation~~
~~1 9 of section 124.213~~ from a pharmacy, unless the person has a
1 10 prescription for a pseudoephedrine product in excess of that
1 11 quantity. A pseudoephedrine product not excepted from this
1 12 schedule shall be sold by a pharmacy as provided in section
1 13 124.212A.
1 14 Sec. 2. NEW SECTION. 124.212A PHARMACY PSEUDOEPHEDRINE
1 15 SALE == RESTRICTIONS == RECORDS == CONTINGENT APPLICABILITY.
1 16 1. A pharmacy, an employee of a pharmacy, or a licensed
1 17 pharmacist shall do the following:
1 18 a. Provide for the sale of a pseudoephedrine product in a
1 19 locked cabinet or behind the sales counter where the public is
1 20 unable to reach the product and where the public is not
1 21 permitted.
1 22 b. Require the purchaser to present a governmental=issued
1 23 photo identification card identifying the purchaser prior to
1 24 purchasing a pseudoephedrine product.
1 25 c. Provide an electronic logbook for purchasers of
1 26 pseudoephedrine products to sign.
1 27 d. Require the purchaser to sign the electronic logbook.
1 28 If the electronic logbook is not available, require a
1 29 signature that is associated with a transaction number.
1 30 e. Enter the purchaser's name, address, date of purchase,
1 31 time of purchase, name of the pseudoephedrine product
1 32 purchased, and the quantity sold in the electronic logbook.
1 33 If the electronic logbook is unavailable, an alternative
1 34 record shall be kept that complies with rules adopted by the
1 35 board.
2 1 f. Determine that the signature in the electronic logbook
2 2 corresponds with the name on the government=issued photo
2 3 identification card.
2 4 g. Provide notice that a purchaser entering a false
2 5 statement or misrepresentation in the electronic logbook may
2 6 subject the purchaser to criminal penalties under 18 U.S.C. }
2 7 1001.
2 8 h. Keep electronic logbook records and any other records
2 9 obtained if the electronic logbook is unavailable for
2 10 twenty=four months from the date of the last entry.
2 11 i. Disclose electronic logbook information and any other
2 12 associated records as provided by state and federal law.
2 13 j. Comply with training requirements pursuant to federal
2 14 law.
2 15 2. This section is not applicable unless sufficient
2 16 funding is received to implement and maintain the statewide

2 17 real-time central repository and the board establishes the
2 18 statewide real-time central repository. However, subsection
2 19 1, paragraph "h" is applicable upon the effective date of this
2 20 Act.

2 21 Sec. 3. NEW SECTION. 124.212B PSEUDOEPHEDRINE SALES ==
2 22 TRACKING == PENALTY == CONTINGENT APPLICABILITY.

2 23 1. The board shall establish a real-time electronic
2 24 repository to monitor and control the sale of schedule V
2 25 products containing any detectible amount of pseudoephedrine,
2 26 its salts, or optical isomers, or salts of optical isomers;
2 27 ephedrine; or phenylpropanolamine. A pharmacy dispensing such
2 28 products shall report all such sales electronically to a
2 29 central repository under the control of the board.

2 30 2. The information collected in the central repository is
2 31 confidential unless otherwise ordered by a court, or released
2 32 by the lawful custodian of the records pursuant to this
2 33 section.

2 34 3. A pharmacy, an employee of a pharmacy, or a licensed
2 35 pharmacist shall not be provided access to the stored
3 1 information in the electronic central repository, except for
3 2 the purpose of obtaining sufficient information for a
3 3 pharmacy, an employee of a pharmacy, or a licensed pharmacist
3 4 to determine whether to complete the sale of the product. A
3 5 pharmacy, an employee of a pharmacy, or a licensed pharmacist
3 6 shall not be given the obligation or duty to view the stored
3 7 information.

3 8 4. A pharmacy, or an employee of a pharmacy, or a licensed
3 9 pharmacist shall not be given the obligation or duty to seek
3 10 information from the central repository if the real-time
3 11 electronic logbook becomes unavailable for use.

3 12 5. If the electronic logbook is unavailable for use, a
3 13 paper record for each sale shall be maintained including the
3 14 purchaser's signature. Any paper record maintained by the
3 15 pharmacy shall be provided to the board for inclusion in the
3 16 electronic real-time central repository as soon as
3 17 practicable.

3 18 6. A pharmacy, or an employee of a pharmacy, or a licensed
3 19 pharmacist shall not be liable, if acting reasonably and in
3 20 good faith, to any person for any claim which may arise when
3 21 reporting sales of products enumerated in subsection 1 to the
3 22 central repository.

3 23 7. A person who discloses information stored in the
3 24 central repository in violation of this section commits a
3 25 simple misdemeanor.

3 26 8. The board shall adopt rules to administer this section.

3 27 9. This section is not applicable unless sufficient
3 28 funding is received to implement and maintain this section and
3 29 the board establishes the statewide real-time central
3 30 repository.

3 31 Sec. 4. NEW SECTION. 124.212C PSEUDOEPHEDRINE ADVISORY
3 32 COUNCIL == ELECTRONIC MONITORING.

3 33 1. The board shall establish a pseudoephedrine advisory
3 34 council to provide input and advise the board regarding the
3 35 implementation and maintenance of the statewide real-time
4 1 central repository established under section 124.212B to
4 2 monitor sales of pseudoephedrine. The board shall specify the
4 3 duties, responsibilities, and other related matters of the
4 4 advisory council.

4 5 2. The council shall consist of four licensed pharmacists.
4 6 The board shall solicit recommendations for membership on the
4 7 council from the Iowa pharmacy association and Iowa retail
4 8 federation, and shall appoint members from the
4 9 recommendations. The council shall include a member from an
4 10 independent pharmacy, a member from a regional chain pharmacy,
4 11 and a member from a national chain pharmacy. The license of
4 12 any member must be current and not subject to disciplinary
4 13 sanctions.

4 14 3. The council may make recommendations regarding the
4 15 implementation and maintenance of the statewide real-time
4 16 central repository monitoring system under section 124.212B.

4 17 4. The council shall do the following:

4 18 a. Assist the board in implementing and maintaining the
4 19 statewide real-time central repository monitoring system.

4 20 b. Assist the board in developing utilization guidance
4 21 related to the statewide real-time central repository
4 22 monitoring system and disseminating such guidance.

4 23 c. Assist the board in developing guidelines to ensure
4 24 patient confidentiality and the integrity of the relationship
4 25 established by the patient and the patient's health care
4 26 provider.

4 27 5. All members of the council shall receive actual and

4 28 necessary expenses incurred in the performance of their
4 29 duties.

4 30 Sec. 5. Section 124.213, Code 2007, is amended by striking
4 31 the section and inserting in lieu thereof the following:

4 32 124.213 PSEUDOEPHEDRINE PURCHASE RESTRICTIONS FROM
4 33 PHARMACY OR RETAILER == PENALTY.

4 34 1. A person shall not purchase more than three thousand
4 35 six hundred milligrams of pseudoephedrine, either separately
5 1 or collectively, within a twenty=four=hour period from a
5 2 pharmacy, or more than one package of a product containing
5 3 pseudoephedrine within a twenty=four hour period from a
5 4 retailer in violation of section 126.23A.

5 5 2. A person shall not purchase more than seven thousand
5 6 five hundred milligrams of pseudoephedrine, either separately
5 7 or collectively, within a thirty=day period from a pharmacy or
5 8 from a retailer in violation of section 126.23A.

5 9 3. A person who violates this section commits a serious
5 10 misdemeanor.

5 11 Sec. 6. Section 126.23A, subsection 1, paragraph a,
5 12 subparagraph (1), Code 2007, is amended by striking the
5 13 subparagraph and inserting in lieu thereof the following:

5 14 (1) Sell more than seven thousand five hundred milligrams
5 15 of pseudoephedrine to the same person within a thirty=day
5 16 period.

5 17 Sec. 7. Section 126.23A, subsection 1, paragraph b, Code
5 18 2007, is amended to read as follows:

5 19 b. A retailer or an employee of a retailer shall do the
5 20 following:

5 21 (1) Provide for the sale of a pseudoephedrine product in a
5 22 locked cabinet or behind a sales counter where the public is
5 23 unable to reach the product and where the public is not
5 24 permitted.

5 25 (2) Require a purchaser to present a government=issued
5 26 photo identification card identifying the purchaser prior to
5 27 purchasing a pseudoephedrine product.

5 28 (3) Require the purchaser to sign a logbook and to also
5 29 require the purchaser to legibly print the purchaser's name
5 30 and address in the logbook.

5 31 (4) Print the name of the pseudoephedrine product
5 32 purchased and quantity sold next to the name of each purchaser
5 33 in the logbook.

5 34 ~~(4)~~ (5) Determine the signature in the logbook
5 35 corresponds with the name on the government=issued photo
6 1 identification card.

6 2 ~~(5)~~ (6) Keep the logbook ~~twelve~~ twenty=four months from
6 3 the date of the last entry.

6 4 ~~(6)~~ (7) Provide notification in a clear and conspicuous
6 5 manner in a location where a pseudoephedrine product is
6 6 offered for sale stating the following:

6 7 Iowa law prohibits the over=the=counter purchase of more
6 8 than one package of a product containing pseudoephedrine in a
6 9 twenty=four=hour period or of more than seven thousand five
6 10 hundred milligrams of pseudoephedrine within a thirty=day
6 11 period. If you purchase a product containing pseudoephedrine,
6 12 you are required to sign a logbook which may be accessible to
6 13 law enforcement officers.

6 14 (8) Provide notification affixed to the logbook stating
6 15 that a purchaser entering a false statement or
6 16 misrepresentation in the logbook may subject the purchaser to
6 17 criminal penalties under 18 U.S.C. } 1001.

6 18 (9) Disclose logbook information as provided by state and
6 19 federal law.

6 20 (10) Comply with training requirements pursuant to federal
6 21 law.

6 22 Sec. 8. CONTINGENT APPLICABILITY == PHARMACY BOARD AND
6 23 CODE EDITOR RESPONSIBILITIES.

6 24 1. The board of pharmacy examiners shall notify the Code
6 25 editor when the establishment of the repository on a statewide
6 26 basis is complete.

6 27 2. When the establishment of the central repository on a
6 28 statewide basis is complete, the Code editor is directed to
6 29 remove section 124.212A, subsection 2, and section 124.212B,
6 30 subsection 9, from the Code and to internally renumber the
6 31 sections as necessary.

6 32 EXPLANATION

6 33 This bill relates to the sale of a pseudoephedrine product
6 34 by a pharmacy or retailer.

6 35 PENALTIES. The bill provides that a person shall not
7 1 purchase more than 3,600 milligrams of pseudoephedrine, either
7 2 collectively or separately, within a 24=hour period from a
7 3 pharmacy unless the person has a prescription. A person who

7 4 violates this provision of the bill commits a serious
7 5 misdemeanor. Under current law and the bill, a person commits
7 6 a serious misdemeanor if the person purchases more than 7,500
7 7 milligrams of pseudoephedrine within a 30-day period from a
7 8 pharmacy or retailer.

7 9 PHARMACY. The bill requires a purchaser of a
7 10 pseudoephedrine product from a pharmacy to sign an electronic
7 11 logbook. Current law does not require a signature in an
7 12 electronic logbook. The bill also provides that if the
7 13 electronic logbook is unavailable, the pharmacy is required to
7 14 keep an alternative record that complies with rules adopted by
7 15 the state board of pharmacy examiners.

7 16 The bill requires a pharmacy, an employee of a pharmacy, or
7 17 a licensed pharmacist, to enter a purchaser's name, address,
7 18 date of purchase, time of purchase, name of pseudoephedrine
7 19 product, and quantity sold into an electronic logbook. If the
7 20 electronic logbook is unavailable for use, the bill requires
7 21 the pharmacy to keep written records of the transaction
7 22 including a signature.

7 23 The bill requires a pharmacy to keep electronic logbook
7 24 records for a period of 24 months from the date of the last
7 25 entry. Current law requires the pharmacy to keep the logbook
7 26 12 months from the date of the last entry.

7 27 The bill provides that the state board of pharmacy
7 28 examiners shall implement and maintain a statewide real-time
7 29 central repository to track pseudoephedrine product sales at
7 30 pharmacies. The bill requires a pharmacy dispensing
7 31 pseudoephedrine products to report all such sales
7 32 electronically to the central repository under the control of
7 33 the state board of pharmacy examiners. If the pharmacy has
7 34 written records, the records are also to be reported for entry
7 35 into the repository. If the electronic logbook is unavailable
8 1 for use, the bill requires the pharmacy to keep written
8 2 records of the transaction including a signature.

8 3 The bill makes confidential the information collected in
8 4 the central repository unless otherwise ordered by a court, or
8 5 the records are released by the custodian of the records
8 6 pursuant to new Code section 124.212B.

8 7 The bill provides that a pharmacy, an employee of a
8 8 pharmacy, or a licensed pharmacist shall not be liable to any
8 9 person for any claim which may arise when reporting in good
8 10 faith pseudoephedrine sales to the central repository.

8 11 The bill also requires a pharmacy to comply with training
8 12 requirements pursuant to federal law.

8 13 A person who discloses information stored in the central
8 14 repository in violation of the bill commits a simple
8 15 misdemeanor.

8 16 RETAILER. The bill requires a retailer or an employee of a
8 17 retailer to print the name of the pseudoephedrine product
8 18 purchased and the quantity sold next to the name of each
8 19 purchaser in the logbook.

8 20 The bill requires the retailer to keep the logbook 24
8 21 months from the date of the last entry. Current law requires
8 22 the retailer to keep the logbook 12 months from the date of
8 23 the last entry. The bill does not require a retailer to keep
8 24 an electronic logbook of pseudoephedrine purchases.

8 25 The bill also requires a retailer to comply with training
8 26 requirements pursuant to federal law.

8 27 ADVISORY COMMITTEE. The bill requires the board of
8 28 pharmacy examiners to establish a pseudoephedrine advisory
8 29 committee to provide input and advise the board regarding the
8 30 implementation and maintenance of the statewide real-time
8 31 central repository. The advisory committee shall consist of
8 32 four licensed pharmacists including a pharmacist from an
8 33 independent pharmacy, a regional chain pharmacy, and a
8 34 national chain pharmacy.

8 35 CONTINGENT APPLICABILITY. New Code sections 124.212A and
9 1 124.212B created in the bill do not become applicable until
9 2 sufficient funding is received and the central repository
9 3 under the control of the state board of pharmacy examiners is
9 4 established on a statewide basis. However, Code section
9 5 124.212A, subsection 1, paragraph "h", in the bill, which
9 6 requires a pharmacy to keep logbook records 24 months from the
9 7 date of the last entry, is applicable upon the effective date
9 8 of the bill.

9 9 LSB 6498HZ 82
9 10 jm/rj/14