

# House File 331 - Introduced

HOUSE FILE \_\_\_\_\_  
BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HSB 97)

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 1250HV 83  
6 jm/rj/14

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1 1 Section 1. Section 124.101, Code 2009, is amended by  
1 2 adding the following new subsection:  
1 3 NEW SUBSECTION. 20A. "Office" means the governor's office  
1 4 of drug control policy as referred to in section 80E.1.  
1 5 Sec. 2. Section 124.212, subsection 4, paragraph c, Code  
1 6 2009, is amended to read as follows:  
1 7 c. Pseudoephedrine. A person shall present a  
1 8 government-issued photo identification card when purchasing a  
1 9 pseudoephedrine product from a pharmacy. A person shall not  
1 10 purchase more than seven thousand five hundred milligrams of  
1 11 pseudoephedrine, either separately or collectively, within a  
1 12 thirty-day period a quantity of pseudoephedrine in violation  
1 13 of section 124.213 from a pharmacy, unless the person has a  
1 14 prescription for a pseudoephedrine product in excess of that  
1 15 quantity. A pseudoephedrine product not excepted from this  
1 16 schedule shall be sold by a pharmacy as provided in section  
1 17 124.212A.  
1 18 Sec. 3. NEW SECTION. 124.212A PHARMACY PSEUDOEPHEDRINE  
1 19 SALE == RESTRICTIONS == RECORDS == CONTINGENT APPLICABILITY.  
1 20 1. A pharmacy, an employee of a pharmacy, or a licensed  
1 21 pharmacist shall do the following:  
1 22 a. Provide for the sale of a pseudoephedrine product in a  
1 23 locked cabinet or behind the sales counter where the public is  
1 24 unable to reach the product and where the public is not  
1 25 permitted.  
1 26 b. Require the purchaser to present a governmental-issued  
1 27 photo identification card identifying the purchaser prior to  
1 28 purchasing a pseudoephedrine product.  
1 29 c. Provide an electronic logbook for purchasers of  
1 30 pseudoephedrine products to sign.  
1 31 d. Require the purchaser to sign the electronic logbook.  
1 32 If the electronic logbook is not available, require a  
1 33 signature that is associated with a transaction number.  
1 34 e. Enter the purchaser's name, address, date of purchase,  
1 35 time of purchase, name of the pseudoephedrine product  
2 1 purchased, and the quantity sold in the electronic logbook.  
2 2 If the electronic logbook is unavailable, an alternative  
2 3 record shall be kept that complies with the rules adopted by  
2 4 both the office and the board.  
2 5 f. Determine that the signature in the electronic logbook  
2 6 corresponds with the name on the government-issued photo  
2 7 identification card.  
2 8 g. Provide notice that a purchaser entering a false  
2 9 statement or misrepresentation in the electronic logbook may  
2 10 subject the purchaser to criminal penalties under 18 U.S.C. }  
2 11 1001.  
2 12 h. Keep electronic logbook records and any other records  
2 13 obtained from pseudoephedrine purchases if the electronic  
2 14 logbook is unavailable for twenty-four months from the date of  
2 15 the last entry.  
2 16 i. Disclose electronic logbook information and any other  
2 17 pseudoephedrine purchase records as provided by state and

2 18 federal law.

2 19 j. Comply with training requirements pursuant to federal  
2 20 law.

2 21 2. This section is not applicable unless sufficient  
2 22 funding is received to implement and maintain the statewide  
2 23 real-time central repository and the office establishes the  
2 24 statewide real-time central repository. However, subsection  
2 25 1, paragraph "h" is applicable upon the effective date of this  
2 26 Act.

2 27 Sec. 4. NEW SECTION. 124.212B PSEUDOEPHEDRINE SALES ==  
2 28 TRACKING == PENALTY == CONTINGENT APPLICABILITY.

2 29 1. The office shall establish a real-time electronic  
2 30 repository to monitor and control the sale of schedule V  
2 31 products containing any detectible amount of pseudoephedrine,  
2 32 its salts, or optical isomers, or salts of optical isomers;  
2 33 ephedrine; or phenylpropanolamine. A pharmacy dispensing such  
2 34 products shall report all such sales electronically to a  
2 35 central repository under the control of the office.

3 1 2. The information collected in the central repository is  
3 2 confidential unless otherwise ordered by a court or unless  
3 3 disclosure is otherwise permitted pursuant to state or federal  
3 4 law.

3 5 3. A pharmacy, an employee of a pharmacy, or a licensed  
3 6 pharmacist shall not be provided access to the stored  
3 7 information in the electronic central repository. However, a  
3 8 pharmacy, an employee of a pharmacy, or a licensed pharmacist  
3 9 shall be provided access to the stored information for the  
3 10 limited purpose of determining what sales have been made by  
3 11 the pharmacy. A pharmacy, an employee of a pharmacy, or a  
3 12 licensed pharmacist shall not be given the obligation or duty  
3 13 to view the stored information.

3 14 4. A pharmacy, or an employee of a pharmacy, or a licensed  
3 15 pharmacist shall not be given the obligation or duty to seek  
3 16 information from the central repository if the real-time  
3 17 electronic logbook becomes unavailable for use.

3 18 5. If the electronic logbook is unavailable for use, a  
3 19 paper record for each sale shall be maintained including the  
3 20 purchaser's signature. Any paper record maintained by the  
3 21 pharmacy shall be provided to the office for inclusion in the  
3 22 electronic real-time central repository as soon as  
3 23 practicable.

3 24 6. A pharmacy, or an employee of a pharmacy, or a licensed  
3 25 pharmacist shall not be liable, if acting reasonably and in  
3 26 good faith, to any person for any claim which may arise when  
3 27 reporting sales of products enumerated in subsection 1 to the  
3 28 central repository.

3 29 7. A person who discloses information stored in the  
3 30 central repository in violation of this section commits a  
3 31 simple misdemeanor.

3 32 8. Both the office and the board shall adopt rules to  
3 33 administer this section.

3 34 9. The office shall report to the board on an annual  
3 35 basis, beginning January 1, 2010, regarding the repository,  
4 1 including the effectiveness of the repository in discovering  
4 2 unlawful sales of pseudoephedrine products.

4 3 10. This section is not applicable unless sufficient  
4 4 funding is received to implement and maintain this section and  
4 5 the office establishes the statewide real-time central  
4 6 repository.

4 7 Sec. 5. NEW SECTION. 124.212C PSEUDOEPHEDRINE ADVISORY  
4 8 COUNCIL == ELECTRONIC MONITORING.

4 9 1. The office shall establish a pseudoephedrine advisory  
4 10 council to provide input and advise the office regarding the  
4 11 implementation and maintenance of the statewide real-time  
4 12 central repository established under section 124.212B to  
4 13 monitor sales of pseudoephedrine. The office shall specify  
4 14 the duties, responsibilities, and other related matters of the  
4 15 advisory council.

4 16 2. The council shall consist of four licensed pharmacists.  
4 17 The office shall solicit recommendations for membership on the  
4 18 council from the Iowa pharmacy association and Iowa retail  
4 19 federation, and shall appoint members from the  
4 20 recommendations. The council shall include a member from an  
4 21 independent pharmacy, a member from a regional chain pharmacy,  
4 22 and a member from a national chain pharmacy. The license of  
4 23 any member must be current and not subject to disciplinary  
4 24 sanctions.

4 25 3. The council may make recommendations regarding the  
4 26 implementation and maintenance of the statewide real-time  
4 27 central repository monitoring system under section 124.212B.

4 28 4. The council shall do the following:

4 29 a. Assist the office in implementing and maintaining the  
4 30 statewide real-time central repository monitoring system.  
4 31 b. Assist the office in developing utilization guidance  
4 32 related to the statewide real-time central repository  
4 33 monitoring system and disseminating such guidance.  
4 34 c. Assist the office in developing guidelines to ensure  
4 35 patient confidentiality and the integrity of the relationship  
5 1 established by the patient and the patient's health care  
5 2 provider.

5 3 5. All members of the council shall receive actual and  
5 4 necessary expenses incurred in the performance of their  
5 5 duties.

5 6 Sec. 6. Section 124.213, Code 2009, is amended by striking  
5 7 the section and inserting in lieu thereof the following:  
5 8 124.213 PSEUDOEPHEDRINE PURCHASE RESTRICTIONS FROM  
5 9 PHARMACY OR RETAILER == PENALTY.

5 10 1. A person shall not purchase more than three thousand  
5 11 six hundred milligrams of pseudoephedrine, either separately  
5 12 or collectively, within a twenty-four-hour period from a  
5 13 pharmacy, or more than one package of a product containing  
5 14 pseudoephedrine within a twenty-four hour period from a  
5 15 retailer in violation of section 126.23A.

5 16 2. A person shall not purchase more than seven thousand  
5 17 five hundred milligrams of pseudoephedrine, either separately  
5 18 or collectively, within a thirty-day period from a pharmacy or  
5 19 from a retailer in violation of section 126.23A.

5 20 3. A person who violates this section commits a serious  
5 21 misdemeanor.

5 22 Sec. 7. Section 126.23A, subsection 1, paragraph a,  
5 23 subparagraph (1), Code 2009, is amended by striking the  
5 24 subparagraph and inserting in lieu thereof the following:  
5 25 (1) Sell more than seven thousand five hundred milligrams  
5 26 of pseudoephedrine to the same person within a thirty-day  
5 27 period.

5 28 Sec. 8. Section 126.23A, subsection 1, paragraph b, Code  
5 29 2009, is amended to read as follows:  
5 30 b. A retailer or an employee of a retailer shall do the  
5 31 following:

5 32 (1) Provide for the sale of a pseudoephedrine product in a  
5 33 locked cabinet or behind a sales counter where the public is  
5 34 unable to reach the product and where the public is not  
5 35 permitted.

6 1 (2) Require a purchaser to present a government-issued  
6 2 photo identification card identifying the purchaser prior to  
6 3 purchasing a pseudoephedrine product.

6 4 (3) Require the purchaser to sign a logbook and to also  
6 5 require the purchaser to legibly print the purchaser's name  
6 6 and address in the logbook.

6 7 (4) Print the name of the pseudoephedrine product  
6 8 purchased and quantity sold next to the name of each purchaser  
6 9 in the logbook.

6 10 ~~(4)~~ (5) Determine the signature in the logbook  
6 11 corresponds with the name on the government-issued photo  
6 12 identification card.

6 13 ~~(5)~~ (6) Keep the logbook ~~twelve~~ twenty-four months from  
6 14 the date of the last entry.

6 15 ~~(6)~~ (7) Provide notification in a clear and conspicuous  
6 16 manner in a location where a pseudoephedrine product is  
6 17 offered for sale stating the following:  
6 18 Iowa law prohibits the over-the-counter purchase of more  
6 19 than one package of a product containing pseudoephedrine in a  
6 20 twenty-four-hour period or of more than seven thousand five  
6 21 hundred milligrams of pseudoephedrine within a thirty-day  
6 22 period. If you purchase a product containing pseudoephedrine,  
6 23 you are required to sign a logbook which may be accessible to  
6 24 law enforcement officers.

6 25 (8) Provide notification affixed to the logbook stating  
6 26 that a purchaser entering a false statement or  
6 27 misrepresentation in the logbook may subject the purchaser to  
6 28 criminal penalties under 18 U.S.C. } 1001.

6 29 (9) Disclose logbook information as provided by state and  
6 30 federal law.

6 31 (10) Comply with training requirements pursuant to federal  
6 32 law.

6 33 Sec. 9. CONTINGENT APPLICABILITY == GOVERNOR'S OFFICE OF  
6 34 DRUG CONTROL POLICY AND CODE EDITOR RESPONSIBILITIES.

6 35 1. The governor's office of drug control policy shall  
7 1 notify the Code editor when the establishment of the  
7 2 repository on a statewide basis is complete.

7 3 2. When the establishment of the central repository on a  
7 4 statewide basis is complete, the Code editor is directed to

7 5 remove section 124.212A, subsection 2, and section 124.212B,  
7 6 subsection 10, from the Code and to internally renumber the  
7 7 sections as necessary.

#### 7 8 EXPLANATION

7 9 This bill relates to the sale of a pseudoephedrine product  
7 10 by a pharmacy or retailer.

7 11 PENALTIES. The bill provides that a person shall not  
7 12 purchase more than 3,600 milligrams of pseudoephedrine, either  
7 13 collectively or separately, within a 24-hour period from a  
7 14 pharmacy unless the person has a prescription. A person who  
7 15 violates this provision of the bill commits a serious  
7 16 misdemeanor. Under current law and the bill, a person commits  
7 17 a serious misdemeanor if the person purchases more than 7,500  
7 18 milligrams of pseudoephedrine within a 30-day period from a  
7 19 pharmacy or retailer.

7 20 PHARMACY. The bill requires a purchaser of a  
7 21 pseudoephedrine product from a pharmacy to sign an electronic  
7 22 logbook. Current law does not require a signature in an  
7 23 electronic logbook. The bill also provides that if the  
7 24 electronic logbook is unavailable, the pharmacy is required to  
7 25 keep an alternative pseudoephedrine purchase record that  
7 26 complies with rules adopted by both the governor's office of  
7 27 drug control policy and the state board of pharmacy.

7 28 The bill requires a pharmacy, an employee of a pharmacy, or  
7 29 a licensed pharmacist, to enter a purchaser's name, address,  
7 30 date of purchase, time of purchase, name of pseudoephedrine  
7 31 product, and quantity sold into an electronic logbook. If the  
7 32 electronic logbook is unavailable for use, the bill requires  
7 33 the pharmacy to keep written pseudoephedrine purchase records  
7 34 of the transaction including a signature.

7 35 The bill requires a pharmacy to keep electronic logbook  
8 1 records for a period of 24 months from the date of the last  
8 2 entry. Current law requires the pharmacy to keep the logbook  
8 3 12 months from the date of the last entry.

8 4 The bill provides that the office of governor's drug  
8 5 control policy shall implement and maintain a statewide  
8 6 real-time central repository to track pseudoephedrine product  
8 7 sales at pharmacies. The bill requires a pharmacy dispensing  
8 8 pseudoephedrine products to report all such sales  
8 9 electronically to the central repository under the control of  
8 10 the office of governor's drug control policy. If the pharmacy  
8 11 has written records, the records are also to be reported for  
8 12 entry into the repository. If the electronic logbook is  
8 13 unavailable for use, the bill requires the pharmacy to keep  
8 14 written records of the transaction including a signature.

8 15 The bill makes confidential the information collected in  
8 16 the central repository unless otherwise ordered by a court, or  
8 17 the records are released by the custodian of the records  
8 18 pursuant to state or federal law.

8 19 The bill provides that a pharmacy, an employee of a  
8 20 pharmacy, or a licensed pharmacist shall not be liable to any  
8 21 person for any claim which may arise when reporting in good  
8 22 faith pseudoephedrine sales to the central repository.

8 23 The bill also requires a pharmacy to comply with training  
8 24 requirements pursuant to federal law.

8 25 Under the bill, a pharmacy, an employee of a pharmacy, or a  
8 26 licensed pharmacist shall not be provided access to the stored  
8 27 information in the electronic central repository, except for  
8 28 the limited purpose of determining what sales have been made  
8 29 by the pharmacy.

8 30 The governor's office of drug control policy and the board  
8 31 of pharmacy shall both adopt rules to implement the bill.

8 32 A person who discloses information stored in the central  
8 33 repository in violation of the bill commits a simple  
8 34 misdemeanor.

8 35 RETAILER. The bill requires a retailer or an employee of a  
9 1 retailer to print the name of the pseudoephedrine product  
9 2 purchased and the quantity sold next to the name of each  
9 3 purchaser in the logbook.

9 4 The bill requires the retailer to keep the logbook 24  
9 5 months from the date of the last entry. Current law requires  
9 6 the retailer to keep the logbook 12 months from the date of  
9 7 the last entry. The bill does not require a retailer to keep  
9 8 an electronic logbook of pseudoephedrine purchases.

9 9 The bill also requires a retailer to comply with training  
9 10 requirements pursuant to federal law.

9 11 ADVISORY COMMITTEE. The bill requires the office of drug  
9 12 control policy to establish a pseudoephedrine advisory  
9 13 committee to provide input and advise the office regarding the  
9 14 implementation and maintenance of the statewide real-time  
9 15 central repository. The advisory committee shall consist of

9 16 four licensed pharmacists including a pharmacist from an  
9 17 independent pharmacy, a regional chain pharmacy, and a  
9 18 national chain pharmacy. The bill requires the office of drug  
9 19 control policy to solicit recommendations for membership on  
9 20 the council from the Iowa pharmacy association and Iowa retail  
9 21 federation.

9 22 CONTINGENT APPLICABILITY. New Code sections 124.212A and  
9 23 124.212B created in the bill do not become applicable until  
9 24 sufficient funding is received and the central repository  
9 25 under the control of the office of drug control policy is  
9 26 established on a statewide basis. However, Code section  
9 27 124.212A, subsection 1, paragraph "h", in the bill, which  
9 28 requires a pharmacy to keep logbook records 24 months from the  
9 29 date of the last entry, is applicable upon the effective date  
9 30 of the bill.

9 31 LSB 1250HV 83  
9 32 jm/rj/14