

Senate File 104 - Introduced

SENATE FILE _____
BY SODDERS

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

A BILL FOR

1 An Act relating to pseudoephedrine product sales by pharmacies
2 and retailers, and providing penalties and contingent
3 applicability.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 2046SS 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 if the electronic logbook is unavailable for
2 14 twenty-four months from the date of the last entry.
2 15 i. Disclose electronic logbook information and any other
2 16 associated records as provided by state and federal law.
2 17 j. Comply with training requirements pursuant to federal

2 18 law.
2 19 2. This section is not applicable unless sufficient
2 20 funding is received to implement and maintain the statewide
2 21 real-time central repository and the office establishes the
2 22 statewide real-time central repository. However, subsection
2 23 1, paragraph "h" is applicable upon the effective date of this
2 24 Act.

2 25 Sec. 4. NEW SECTION. 124.212B PSEUDOEPHEDRINE SALES ==
2 26 TRACKING == PENALTY == CONTINGENT APPLICABILITY.

2 27 1. The office shall establish a real-time electronic
2 28 repository to monitor and control the sale of schedule V
2 29 products containing any detectible amount of pseudoephedrine,
2 30 its salts, or optical isomers, or salts of optical isomers;
2 31 ephedrine; or phenylpropanolamine. A pharmacy dispensing such
2 32 products shall report all such sales electronically to a
2 33 central repository under the control of the office.

2 34 2. The information collected in the central repository is
2 35 confidential unless otherwise ordered by a court, or released
3 1 by the lawful custodian of the records pursuant to state or
3 2 federal law.

3 3 3. A pharmacy, an employee of a pharmacy, or a licensed
3 4 pharmacist shall not be provided access to the stored
3 5 information in the electronic central repository. However, a
3 6 pharmacy, an employee of a pharmacy, or a licensed pharmacist
3 7 shall be provided access to the stored information for the
3 8 limited purpose of determining what sales have been made by
3 9 the pharmacy. A pharmacy, an employee of a pharmacy, or a
3 10 licensed pharmacist shall not be given the obligation or duty
3 11 to view the stored information.

3 12 4. A pharmacy, or an employee of a pharmacy, or a licensed
3 13 pharmacist shall not be given the obligation or duty to seek
3 14 information from the central repository if the real-time
3 15 electronic logbook becomes unavailable for use.

3 16 5. If the electronic logbook is unavailable for use, a
3 17 paper record for each sale shall be maintained including the
3 18 purchaser's signature. Any paper record maintained by the
3 19 pharmacy shall be provided to the office for inclusion in the
3 20 electronic real-time central repository as soon as
3 21 practicable.

3 22 6. A pharmacy, or an employee of a pharmacy, or a licensed
3 23 pharmacist shall not be liable, if acting reasonably and in
3 24 good faith, to any person for any claim which may arise when
3 25 reporting sales of products enumerated in subsection 1 to the
3 26 central repository.

3 27 7. A person who discloses information stored in the
3 28 central repository in violation of this section commits a
3 29 simple misdemeanor.

3 30 8. Both the office and the board shall adopt rules to
3 31 administer this section.

3 32 9. The office and the board shall report to the board on
3 33 an annual basis, beginning January 1, 2010, regarding the
3 34 repository, including the effectiveness of the repository in
3 35 discovering unlawful sales of pseudoephedrine products.

4 1 10. This section is not applicable unless sufficient
4 2 funding is received to implement and maintain this section and
4 3 the office establishes the statewide real-time central
4 4 repository.

4 5 Sec. 5. NEW SECTION. 124.212C PSEUDOEPHEDRINE ADVISORY
4 6 COUNCIL == ELECTRONIC MONITORING.

4 7 1. The office shall establish a pseudoephedrine advisory
4 8 council to provide input and advise the office regarding the
4 9 implementation and maintenance of the statewide real-time
4 10 central repository established under section 124.212B to
4 11 monitor sales of pseudoephedrine. The office shall specify
4 12 the duties, responsibilities, and other related matters of the
4 13 advisory council.

4 14 2. a. The council shall consist of four licensed
4 15 pharmacists. The office shall solicit recommendations for
4 16 membership on the council from the Iowa pharmacy association
4 17 and Iowa retail federation, and shall appoint members from the
4 18 recommendations. The council shall include a member from an
4 19 independent pharmacy, a member from a regional chain pharmacy,
4 20 and a member from a national chain pharmacy. The license of
4 21 any member must be current and not subject to disciplinary
4 22 sanctions.

4 23 b. The council shall also consist of four members of the
4 24 general assembly serving as ex officio, nonvoting members, one
4 25 representative to be appointed by the speaker of the house of
4 26 representatives, one representative to be appointed by the
4 27 minority leader of the house of representatives, one senator
4 28 to be appointed by the majority leader of the senate after

4 29 consultation with the president of the senate, and one senator
4 30 to be appointed by the minority leader of the senate.

4 31 3. The council may make recommendations regarding the
4 32 implementation and maintenance of the statewide real-time
4 33 central repository monitoring system under section 124.212B.

4 34 4. The council shall do the following:

4 35 a. Assist the office in implementing and maintaining the
5 1 statewide real-time central repository monitoring system.

5 2 b. Assist the office in developing utilization guidance
5 3 related to the statewide real-time central repository
5 4 monitoring system and disseminating such guidance.

5 5 c. Assist the office in developing guidelines to ensure
5 6 patient confidentiality and the integrity of the relationship
5 7 established by the patient and the patient's health care
5 8 provider.

5 9 5. All members of the council shall receive actual and
5 10 necessary expenses incurred in the performance of their
5 11 duties.

5 12 Sec. 6. Section 124.213, Code 2009, is amended by striking
5 13 the section and inserting in lieu thereof the following:

5 14 124.213 PSEUDOEPHEDRINE PURCHASE RESTRICTIONS FROM
5 15 PHARMACY OR RETAILER == PENALTY.

5 16 1. A person shall not purchase more than three thousand
5 17 six hundred milligrams of pseudoephedrine, either separately
5 18 or collectively, within a twenty-four-hour period from a
5 19 pharmacy, or more than one package of a product containing
5 20 pseudoephedrine within a twenty-four hour period from a
5 21 retailer in violation of section 126.23A.

5 22 2. A person shall not purchase more than seven thousand
5 23 five hundred milligrams of pseudoephedrine, either separately
5 24 or collectively, within a thirty-day period from a pharmacy or
5 25 from a retailer in violation of section 126.23A.

5 26 3. A person who violates this section commits a serious
5 27 misdemeanor.

5 28 Sec. 7. Section 126.23A, subsection 1, paragraph a,
5 29 subparagraph (1), Code 2009, is amended by striking the
5 30 subparagraph and inserting in lieu thereof the following:

5 31 (1) Sell more than seven thousand five hundred milligrams
5 32 of pseudoephedrine to the same person within a thirty-day
5 33 period.

5 34 Sec. 8. Section 126.23A, subsection 1, paragraph b, Code
5 35 2009, is amended to read as follows:

6 1 b. A retailer or an employee of a retailer shall do the
6 2 following:

6 3 (1) Provide for the sale of a pseudoephedrine product in a
6 4 locked cabinet or behind a sales counter where the public is
6 5 unable to reach the product and where the public is not
6 6 permitted.

6 7 (2) Require a purchaser to present a government-issued
6 8 photo identification card identifying the purchaser prior to
6 9 purchasing a pseudoephedrine product.

6 10 (3) Require the purchaser to sign a logbook and to also
6 11 require the purchaser to legibly print the purchaser's name
6 12 and address in the logbook.

6 13 (4) Print the name of the pseudoephedrine product
6 14 purchased and quantity sold next to the name of each purchaser
6 15 in the logbook.

6 16 ~~(4)~~ (5) Determine the signature in the logbook
6 17 corresponds with the name on the government-issued photo
6 18 identification card.

6 19 ~~(5)~~ (6) Keep the logbook ~~twelve~~ twenty-four months from
6 20 the date of the last entry.

6 21 ~~(6)~~ (7) Provide notification in a clear and conspicuous
6 22 manner in a location where a pseudoephedrine product is
6 23 offered for sale stating the following:

6 24 Iowa law prohibits the over-the-counter purchase of more
6 25 than one package of a product containing pseudoephedrine in a
6 26 twenty-four-hour period or of more than seven thousand five
6 27 hundred milligrams of pseudoephedrine within a thirty-day
6 28 period. If you purchase a product containing pseudoephedrine,
6 29 you are required to sign a logbook which may be accessible to
6 30 law enforcement officers.

6 31 (8) Provide notification affixed to the logbook stating
6 32 that a purchaser entering a false statement or
6 33 misrepresentation in the logbook may subject the purchaser to
6 34 criminal penalties under 18 U.S.C. } 1001.

6 35 (9) Disclose logbook information as provided by state and
7 1 federal law.

7 2 (10) Comply with training requirements pursuant to federal
7 3 law.

7 4 Sec. 9. CONTINGENT APPLICABILITY == GOVERNOR'S OFFICE OF

7 5 DRUG CONTROL POLICY AND CODE EDITOR RESPONSIBILITIES.

7 6 1. The governor's office of drug control policy shall
7 7 notify the Code editor when the establishment of the
7 8 repository on a statewide basis is complete.

7 9 2. When the establishment of the central repository on a
7 10 statewide basis is complete, the Code editor is directed to
7 11 remove section 124.212A, subsection 2, and section 124.212B,
7 12 subsection 10, from the Code and to internally renumber the
7 13 sections as necessary.

7 14 EXPLANATION

7 15 This bill relates to the sale of a pseudoephedrine product
7 16 by a pharmacy or retailer.

7 17 PENALTIES. The bill provides that a person shall not
7 18 purchase more than 3,600 milligrams of pseudoephedrine, either
7 19 collectively or separately, within a 24-hour period from a
7 20 pharmacy unless the person has a prescription. A person who
7 21 violates this provision of the bill commits a serious
7 22 misdemeanor. Under current law and the bill, a person commits
7 23 a serious misdemeanor if the person purchases more than 7,500
7 24 milligrams of pseudoephedrine within a 30-day period from a
7 25 pharmacy or retailer.

7 26 PHARMACY. The bill requires a purchaser of a
7 27 pseudoephedrine product from a pharmacy to sign an electronic
7 28 logbook. Current law does not require a signature in an
7 29 electronic logbook. The bill also provides that if the
7 30 electronic logbook is unavailable, the pharmacy is required to
7 31 keep an alternative record that complies with rules adopted by
7 32 both the governor's office of drug control policy and the
7 33 state board of pharmacy.

7 34 The bill requires a pharmacy, an employee of a pharmacy, or
7 35 a licensed pharmacist, to enter a purchaser's name, address,
8 1 date of purchase, time of purchase, name of pseudoephedrine
8 2 product, and quantity sold into an electronic logbook. If the
8 3 electronic logbook is unavailable for use, the bill requires
8 4 the pharmacy to keep written records of the transaction
8 5 including a signature.

8 6 The bill requires a pharmacy to keep electronic logbook
8 7 records for a period of 24 months from the date of the last
8 8 entry. Current law requires the pharmacy to keep the logbook
8 9 12 months from the date of the last entry.

8 10 The bill provides that the office of governor's drug
8 11 control policy shall implement and maintain a statewide
8 12 real-time central repository to track pseudoephedrine product
8 13 sales at pharmacies. The bill requires a pharmacy dispensing
8 14 pseudoephedrine products to report all such sales
8 15 electronically to the central repository under the control of
8 16 the office of governor's drug control policy. If the pharmacy
8 17 has written records, the records are also to be reported for
8 18 entry into the repository. If the electronic logbook is
8 19 unavailable for use, the bill requires the pharmacy to keep
8 20 written records of the transaction including a signature.

8 21 The bill makes confidential the information collected in
8 22 the central repository unless otherwise ordered by a court, or
8 23 the records are released by the custodian of the records
8 24 pursuant to state or federal law.

8 25 The bill provides that a pharmacy, an employee of a
8 26 pharmacy, or a licensed pharmacist shall not be liable to any
8 27 person for any claim which may arise when reporting in good
8 28 faith pseudoephedrine sales to the central repository.

8 29 The bill also requires a pharmacy to comply with training
8 30 requirements pursuant to federal law.

8 31 Under the bill, a pharmacy, an employee of a pharmacy, or a
8 32 licensed pharmacist shall not be provided access to the stored
8 33 information in the electronic central repository, except for
8 34 the limited purpose of determining what sales have been made
8 35 by the pharmacy.

9 1 The governor's office of drug control policy and the board
9 2 of pharmacy shall both adopt rules to implement the bill.

9 3 A person who discloses information stored in the central
9 4 repository in violation of the bill commits a simple
9 5 misdemeanor.

9 6 RETAILER. The bill requires a retailer or an employee of a
9 7 retailer to print the name of the pseudoephedrine product
9 8 purchased and the quantity sold next to the name of each
9 9 purchaser in the logbook.

9 10 The bill requires the retailer to keep the logbook 24
9 11 months from the date of the last entry. Current law requires
9 12 the retailer to keep the logbook 12 months from the date of
9 13 the last entry. The bill does not require a retailer to keep
9 14 an electronic logbook of pseudoephedrine purchases.

9 15 The bill also requires a retailer to comply with training

9 16 requirements pursuant to federal law.
9 17 ADVISORY COMMITTEE. The bill requires the office of drug
9 18 control policy to establish a pseudoephedrine advisory
9 19 committee to provide input and advise the office regarding the
9 20 implementation and maintenance of the statewide real-time
9 21 central repository. The advisory committee shall consist of
9 22 four licensed pharmacists including a pharmacist from an
9 23 independent pharmacy, a regional chain pharmacy, and a
9 24 national chain pharmacy. The bill requires the office of drug
9 25 control policy to solicit recommendations for membership on
9 26 the council from the Iowa pharmacy association and Iowa retail
9 27 federation.

9 28 The bill also provides that the council shall also consist
9 29 of four members of the general assembly serving as ex officio,
9 30 nonvoting members.

9 31 CONTINGENT APPLICABILITY. New Code sections 124.212A and
9 32 124.212B created in the bill do not become applicable until
9 33 sufficient funding is received and the central repository
9 34 under the control of the office of drug control policy is
9 35 established on a statewide basis. However, Code section
10 1 124.212A, subsection 1, paragraph "h", in the bill, which
10 2 requires a pharmacy to keep logbook records 24 months from the
10 3 date of the last entry, is applicable upon the effective date
10 4 of the bill.

10 5 LSB 2046SS 83

10 6 jm/rj/14.1