

Senate Study Bill 1109

SENATE/HOUSE FILE _____
BY (PROPOSED GOVERNOR'S
OFFICE OF DRUG CONTROL
POLICY BILL)

Passed Senate, Date _____ Passed House, 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 1250DP 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, except for
3 6 the purpose of obtaining sufficient information for a
3 7 pharmacy, an employee of a pharmacy, or a licensed pharmacist
3 8 to determine whether to complete the sale of the product. In
3 9 addition, a pharmacy, an employee of a pharmacy, or a licensed
3 10 pharmacist shall be provided access to the information to
3 11 determine the sales made by the pharmacy. A pharmacy, an
3 12 employee of a pharmacy, or a licensed pharmacist shall not be
3 13 given the obligation or duty 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 record that complies with rules adopted by
7 26 both the governor's office of drug control policy and the
7 27 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 records of the transaction
7 34 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 purpose of obtaining certain information.

8 29 The governor's office of drug control policy and the board
8 30 of pharmacy shall both adopt rules to implement the bill.

8 31 A person who discloses information stored in the central
8 32 repository in violation of the bill commits a simple
8 33 misdemeanor.

8 34 RETAILER. The bill requires a retailer or an employee of a
8 35 retailer to print the name of the pseudoephedrine product
9 1 purchased and the quantity sold next to the name of each
9 2 purchaser in the logbook.

9 3 The bill requires the retailer to keep the logbook 24
9 4 months from the date of the last entry. Current law requires
9 5 the retailer to keep the logbook 12 months from the date of
9 6 the last entry. The bill does not require a retailer to keep
9 7 an electronic logbook of pseudoephedrine purchases.

9 8 The bill also requires a retailer to comply with training
9 9 requirements pursuant to federal law.

9 10 ADVISORY COMMITTEE. The bill requires the office of drug
9 11 control policy to establish a pseudoephedrine advisory
9 12 committee to provide input and advise the office regarding the
9 13 implementation and maintenance of the statewide real-time
9 14 central repository. The advisory committee shall consist of
9 15 four licensed pharmacists including a pharmacist from an

9 16 independent pharmacy, a regional chain pharmacy, and a
9 17 national chain pharmacy. The bill requires the office of drug
9 18 control policy to solicit recommendations for membership on
9 19 the council from the Iowa pharmacy association and Iowa retail
9 20 federation.
9 21 CONTINGENT APPLICABILITY. New Code sections 124.212A and
9 22 124.212B created in the bill do not become applicable until
9 23 sufficient funding is received and the central repository
9 24 under the control of the office of drug control policy is
9 25 established on a statewide basis. However, Code section
9 26 124.212A, subsection 1, paragraph "h", in the bill, which
9 27 requires a pharmacy to keep logbook records 24 months from the
9 28 date of the last entry, is applicable upon the effective date
9 29 of the bill.
9 30 LSB 1250DP 83
9 31 jm/rj/14