

House File 2259

HOUSE FILE _____
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:
4 TLSB 6168HV 80
5 jm/pj/5

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1 1 Section 1. NEW SECTION. 126.23A PSEUDOEPHEDRINE ==
1 2 RESTRICTIONS.
1 3 1. A retailer shall not sell and a person shall not
1 4 purchase in a single transaction more than two packages
1 5 containing pseudoephedrine as the products' sole active
1 6 ingredient.
1 7 2. A retailer who offers for sale a product containing
1 8 pseudoephedrine as the product's sole active ingredient shall
1 9 display and offer such product for sale, except as otherwise
1 10 provided, behind a counter where the public is not permitted
1 11 or within twenty feet of a counter which allows the attendant
1 12 to view the products in an unobstructed manner. A retailer
1 13 may display or offer for sale without restriction a product
1 14 containing pseudoephedrine as the sole active ingredient if
1 15 the product is displayed using any type of antitheft device
1 16 system including but not limited to an electronic antitheft
1 17 device system that utilizes a product tag and detection alarm
1 18 which prevents the theft of the product.
1 19 3. A retailer shall post a notice at the location where a
1 20 product containing pseudoephedrine as its sole active
1 21 ingredient is displayed or offered for sale stating the
1 22 following:
1 23 Iowa law prohibits the sale or purchase of more than two
1 24 packages containing pseudoephedrine as the sole active
1 25 ingredient.
1 26 4. An employee of a retailer who sells packages containing
1 27 pseudoephedrine or a person who purchases packages containing
1 28 pseudoephedrine in violation of subsection 1 commits a simple
1 29 misdemeanor, punishable as a scheduled violation under section
1 30 805.8C, subsection 4, paragraph "a". If a citation is issued
1 31 for a violation of subsection 1, the citation shall be issued
1 32 to both the employee who sells the packages and the purchaser.
1 33 5. For each violation of subsection 1, 2, or 3 by a
1 34 retailer, the retailer shall be assessed a scheduled fine
1 35 under section 805.8C, subsection 4, paragraph "b".
2 1 6. a. Enforcement of any scheduled fine for violation of
2 2 this section by the state or a political subdivision of the
2 3 state shall be in magistrate court.
2 4 b. Enforcement of this section shall also be implemented
2 5 uniformly throughout the state. For purposes of uniform
2 6 implementation, a county or municipality shall not set
2 7 requirements or establish a penalty which is higher or more
2 8 stringent than the requirements or penalties enumerated in
2 9 this section.
2 10 7. All civil penalty moneys collected by the state or a
2 11 political subdivision of the state pursuant to this section
2 12 shall be retained by the state or political subdivision of the
2 13 state, respectively.
2 14 8. As used in this section, "retailer" means a person or
2 15 business entity engaged in this state in the business of
2 16 selling products on a retail basis.
2 17 9. This section shall not apply to the following:
2 18 a. Any package of a product containing pseudoephedrine as
2 19 the product's sole active ingredient which is in liquid form.
2 20 b. Any package of a product containing pseudoephedrine as
2 21 the product's sole active ingredient which is primarily
2 22 intended for administration to children under twelve years of

2 23 age according to the label, regardless of whether the product
2 24 is in liquid or solid form.

2 25 c. Any package of a product containing pseudoephedrine as
2 26 the product's sole active ingredient that the board of
2 27 pharmacy examiners, with the concurrence of the department of
2 28 public safety, upon application of a manufacturer, exempts
2 29 from this section because the product is formulated to
2 30 effectively prevent conversion of the active ingredient into
2 31 methamphetamine or its salts or precursors. The board of
2 32 pharmacy examiners, with the concurrence of the department of
2 33 public safety, shall adopt rules pursuant to chapter 17A to
2 34 administer this paragraph.

2 35 Sec. 2. Section 602.8105, Code Supplement 2003, is amended
3 1 by adding the following new subsection:
3 2 NEW SUBSECTION. 4. The clerk of the district court shall
3 3 collect a civil penalty assessed against a retailer pursuant
3 4 to section 126.23A. Any moneys collected from the civil
3 5 penalty shall be distributed to the state or a political
3 6 subdivision of the state as provided in section 126.23A,
3 7 subsection 7.

3 8 Sec. 3. NEW SECTION. 714.7C THEFT OF PSEUDOEPHEDRINE ==
3 9 ENHANCEMENT.

3 10 Notwithstanding section 714.2, subsection 5, a person who
3 11 commits a simple misdemeanor theft of more than two packages
3 12 containing any of the following commits a serious misdemeanor:
3 13 1. Pseudoephedrine as the product's sole active
3 14 ingredient.
3 15 2. Pseudoephedrine in combination with other active
3 16 ingredients.
3 17 A simple misdemeanor theft of more than two packages
3 18 containing pseudoephedrine as the products' sole active
3 19 ingredient which are in liquid form does not constitute a
3 20 serious misdemeanor under this section.

3 21 Sec. 4. Section 805.8C, Code 2003, is amended by adding
3 22 the following new subsection:
3 23 NEW SUBSECTION. 4. a. PSEUDOEPHEDRINE SALES VIOLATIONS.
3 24 For a violation of section 126.23A, subsection 1, the
3 25 scheduled fine is one hundred dollars.
3 26 b. For a violation of section 126.23A, subsection 1, 2, or
3 27 3, by a retailer, the scheduled fine is one hundred dollars,
3 28 and is a civil penalty and the criminal penalty surcharge
3 29 under section 911.2 shall not be added to the penalty, and the
3 30 court costs pursuant to section 805.9, subsection 6, shall not
3 31 be imposed.

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3 33 jm/es/25