

employee and benefit calculations as provided under the program for executive branch employees.

Sec. 2. SPAN OF CONTROL. The department of administrative services, in consultation with the department of management and after discussion and collaboration with executive branch agencies, shall pursue a goal of increasing the ratio of the number of employees per supervisor for executive branch agencies in the aggregate to twelve employees for one supervisor by December 31, 2005.

Sec. 3. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 2, 2004

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## CHAPTER 1036

### ELECTRONIC AND FACSIMILE PRESCRIPTIONS

*H.F. 2506*

**AN ACT** relating to electronic and facsimile prescriptions and making penalties applicable.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 124.101, Code 2003, is amended by adding the following new subsections:

NEW SUBSECTION. 13A. "Electronic prescription" means a prescription which is transmitted by a computer device in a secure manner, including computer-to-computer transmission and computer-to-facsimile transmission.

NEW SUBSECTION. 13B. "Facsimile prescription" means a prescription which is transmitted by a device which sends an exact image to the receiver.

Sec. 2. Section 124.308, subsections 1 and 3, Code 2003, are amended to read as follows:

1. Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance in schedule II may be dispensed without the written prescription of a practitioner or without the electronic or facsimile prescription of a practitioner in accordance with subsection 1A.

3. Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in schedule III or IV, which is a prescription drug as determined under chapter 155A, shall not be dispensed without a written or oral prescription of a practitioner or without an electronic or facsimile prescription in accordance with subsection 3A. The prescription may not be filled or refilled more than six months after the date thereof or be refilled more than five times, unless renewed by the practitioner.

Sec. 3. Section 124.308, Code 2003, is amended by adding the following new subsections:

NEW SUBSECTION. 1A. A practitioner, other than a pharmacy, or a practitioner's authorized agent may transmit an electronic prescription or facsimile prescription to a pharmacy for a schedule II controlled substance, provided that the electronic prescription complies with section 155A.27 and provided that the original signed prescription is presented to the pharma-

cist prior to the dispensing of the schedule II controlled substance. If permitted by federal law, and in accordance with federal requirements, the electronic or facsimile prescription shall serve as the original signed prescription and the practitioner shall not provide the patient or the patient's authorized representative with a signed, written prescription.

NEW SUBSECTION. 3A. A practitioner, other than a pharmacy, or the practitioner's authorized agent may transmit an electronic prescription or a facsimile prescription to a pharmacy for a schedule III, IV, or V controlled substance, provided that the prescription complies with section 155A.27, and provided that the original signed prescription is presented to the pharmacist prior to the dispensing of the controlled substance, or if the prescription is electronic, an oral prescription or a facsimile prescription is provided. If permitted by federal law, and in accordance with federal requirements, the electronic or facsimile prescription shall serve as the original signed prescription and the practitioner shall not provide the patient or the patient's authorized representative with a signed, written prescription.

Sec. 4. Section 126.2, Code 2003, is amended by adding the following new subsections:

NEW SUBSECTION. 8A. "Electronic prescription" means a prescription which is transmitted by a computer device in a secure manner, including computer-to-computer transmission and computer-to-facsimile transmission.

NEW SUBSECTION. 8B. "Facsimile prescription" means a prescription which is transmitted by a device which sends an exact image to the receiver.

Sec. 5. Section 126.11, subsection 3, paragraph a, unnumbered paragraph 2, Code 2003, is amended to read as follows:

Such a drug shall be dispensed only upon a written, electronic, or facsimile prescription of a practitioner licensed by law to administer the drug, or upon an oral prescription of such a practitioner which is reduced promptly to writing and filed by the pharmacist, or by refilling any such written, electronic, facsimile, or oral prescription if the refilling is authorized by the prescriber either in the original written, electronic, or facsimile prescription or by oral order which is reduced promptly to writing and filed by the pharmacist. The act of dispensing a drug contrary to this paragraph while the drug is held for sale results in the drug being misbranded.

Sec. 6. Section 126.11, subsection 3, paragraph b, Code 2003, is amended to read as follows:

b. A drug dispensed by filling or refilling a written, electronic, facsimile, or oral prescription of a practitioner licensed by law to administer the drug is exempt from section 126.10, except subsection 1, subsection 9, paragraphs "b" and "c", and subsections 11 and 12, and the packaging requirements of subsections 7, 8, and 16, if the drug bears a label containing the name and address of the dispenser, the date of the prescription or of its filling, the name of the prescriber, and, if stated in the prescription, the name of the patient, and the directions for use and cautionary statements, if any, contained in the prescription. This exemption does not apply to a drug dispensed in the course of the conduct of the business of dispensing drugs pursuant to diagnosis by mail, or to a drug dispensed in violation of paragraph "a" of this subsection.

Sec. 7. Section 126.11, subsection 3, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. All electronic or facsimile prescriptions transmitted under this section shall comply with section 155A.27.

Sec. 8. Section 147.107, subsection 2, unnumbered paragraph 3, Code Supplement 2003, is amended to read as follows:

A physician, dentist, or podiatric physician who dispenses prescription drugs, other than drug samples, pursuant to this subsection, shall offer to provide the patient with a written prescription that may be dispensed from a pharmacy of the patient's choice or offer to transmit the prescription orally, electronically, or by facsimile in accordance with section 155A.27 to a pharmacy of the patient's choice.

Sec. 9. Section 147.108, subsection 1, Code 2003, is amended to read as follows:

1. A person shall not dispense or adapt contact lenses without first receiving authorization to do so by a written, electronic, or facsimile prescription, except when authorized orally under subsection 2, from a person licensed under chapter 148, 150, 150A, or 154. The board of optometry examiners shall adopt rules relating to electronic or facsimile transmission of a prescription under this section.

Sec. 10. Section 147.109, subsection 1, Code 2003, is amended to read as follows:

1. A person shall not dispense or adapt an ophthalmic spectacle lens or lenses without first receiving authorization to do so by a written, electronic, or facsimile prescription from a person licensed under chapter 148, 150, 150A, or 154. For the purpose of this section, "ophthalmic spectacle lens" means one which has been fabricated to fill the requirements of a particular spectacle lens prescription. The board of optometry examiners shall adopt rules relating to electronic or facsimile transmission of a prescription under this section.

Sec. 11. Section 155A.3, Code 2003, is amended by adding the following new subsections:  
NEW SUBSECTION. 15A. "Electronic order" or "electronic prescription" means an order or prescription which is transmitted by a computer device in a secure manner, including computer-to-computer transmission and computer-to-facsimile transmission.

NEW SUBSECTION. 15B. "Facsimile order" or "facsimile prescription" means an order or prescription which is transmitted by a device which sends an exact image to the receiver.

Sec. 12. Section 155A.3, subsection 31, Code 2003, is amended to read as follows:

31. "Prescription drug order" means a written, electronic, or facsimile order from a practitioner or an oral order from a practitioner or the practitioner's authorized agent who communicates the practitioner's instructions for a prescription drug or device to be dispensed.

Sec. 13. Section 155A.23, subsection 1, paragraph b, Code 2003, is amended to read as follows:

b. Forgery or alteration of a written, electronic, or facsimile prescription or of any written, electronic, or facsimile order.

Sec. 14. Section 155A.23, subsection 4, Code 2003, is amended to read as follows:

4. Make or utter any false or forged oral, written, electronic, or facsimile prescription or oral, written, electronic, or facsimile order.

Sec. 15. Section 155A.27, subsection 1, unnumbered paragraph 1, Code 2003, is amended to read as follows:

If written, ~~or~~ electronic, or facsimile shall contain:

Sec. 16. Section 155A.27, Code 2003, is amended by adding the following new subsections:

NEW SUBSECTION. 1A. If electronic:

a. The practitioner shall ensure that the electronic system used to transmit the electronic prescription has adequate security and system safeguards designed to prevent and detect unauthorized access, modification, or manipulation of the prescription.

b. The practitioner shall provide verbal verification of the electronic prescription upon the request of the pharmacy.

NEW SUBSECTION. 1B. a. If facsimile, in addition to the requirements of subsection 1, shall contain all of the following:

(1) The identification number of the facsimile machine which is used to transmit the prescription.

(2) The time and date of transmission of the prescription.

(3) The name, address, telephone number, and facsimile number of the pharmacy to which the prescription is being transmitted.

b. A practitioner shall provide verbal verification of the facsimile prescription upon the request of the pharmacy.

Sec. 17. Section 155A.32, subsections 1 and 3, Code 2003, are amended to read as follows:

1. If an authorized prescriber prescribes, ~~either~~ in writing, electronically, by facsimile, or orally, a drug by its brand or trade name, the pharmacist may exercise professional judgment in the economic interest of the patient by selecting a drug product with the same generic name and demonstrated bioavailability as the one prescribed for dispensing and sale to the patient. If the cost of the prescription or any part of it will be paid by expenditure of public funds authorized under chapter 249A, the pharmacist shall exercise professional judgment by selecting a drug product with the same generic name and demonstrated bioavailability as the one prescribed for dispensing and sale. If the pharmacist exercises drug product selection, the pharmacist shall inform the patient of the savings which the patient will obtain as a result of the drug product selection and pass on to the patient no less than fifty percent of the difference in actual acquisition costs between the drug prescribed and the drug substituted.

3. If selection of a generically equivalent product is made under this section, the pharmacist making the selection shall note that fact and the name of the manufacturer of the selected drug on the prescription presented by the patient or the patient's adult representative or transmitted by the prescriber or the prescriber's authorized agent.

Approved April 2, 2004

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## CHAPTER 1037

### CATTLE INDUSTRY PROMOTION, EDUCATION, AND RESEARCH — ASSESSMENTS ON CATTLE SALES

*S.F. 2217*

**AN ACT** relating to assessments imposed on cattle for purposes of promotion, education, and research, and providing an effective date.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 181.1, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

181.1 DEFINITIONS.

As used in this chapter, unless the context requires otherwise:

1. "Association" means the Iowa beef cattle producers association.
2. "Cattle" means any live domesticated bovine animal regardless of age.
3. "Council" means the Iowa beef industry council.
4. "Federal act" means the federal Beef Promotion and Research Act of 1985, 7 U.S.C., § 2901 et seq.
5. "Federal assessment" means an excise tax on the sale of bovine animals imposed pursuant to the federal act.
6. "Producer" means any person who owns or acquires ownership of cattle. However, a person shall not be considered a producer if any of the following apply:
  - a. The person's only share in the proceeds of a sale of cattle or beef is a sales commission, handling fee, or other service fee.