

CHAPTER 1127**PSEUDOEPHEDRINE — SALE, PURCHASE, OR THEFT — PENALTIES***H.F. 2259*

AN ACT relating to the selling and purchasing of products containing pseudoephedrine, and providing penalties.

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

Section 1. NEW SECTION. 126.23A PSEUDOEPHEDRINE — RESTRICTIONS.

1. A retailer shall not sell and a person shall not purchase in a single transaction more than two packages containing pseudoephedrine as the products' sole active ingredient.

2. A retailer who offers for sale a product containing pseudoephedrine as the product's sole active ingredient shall display and offer such product for sale, except as otherwise provided, behind a counter where the public is not permitted or within twenty feet of a counter which allows the attendant to view the products in an unobstructed manner. A retailer may display or offer for sale without restriction a product containing pseudoephedrine as the sole active ingredient if the product is displayed using any type of antitheft device system including but not limited to an electronic antitheft device system that utilizes a product tag and detection alarm which prevents the theft of the product.

3. A retailer shall post a notice at the location where a product containing pseudoephedrine as its sole active ingredient is displayed or offered for sale stating the following:

Iowa law prohibits the sale or purchase of more than two packages containing pseudoephedrine as the sole active ingredient.

4. An employee of a retailer who sells packages containing pseudoephedrine or a person who purchases packages containing pseudoephedrine in violation of subsection 1 commits a simple misdemeanor, punishable as a scheduled violation under section 805.8C, subsection 4, paragraph "a". If a citation is issued for a violation of subsection 1, the citation shall be issued to both the employee who sells the packages and the purchaser.

5. For each violation of subsection 1, 2, or 3 by a retailer, the retailer shall be assessed a scheduled fine under section 805.8C, subsection 4, paragraph "b".

6. a. Enforcement of any scheduled fine for violation of this section by the state or a political subdivision of the state shall be in magistrate court.

b. Enforcement of this section shall also be implemented uniformly throughout the state. For purposes of uniform implementation, a county or municipality shall not set requirements or establish a penalty which is higher or more stringent than the requirements or penalties enumerated in this section.

7. All civil penalty moneys collected by the state or a political subdivision of the state pursuant to this section shall be retained by the state or political subdivision of the state, respectively.

8. As used in this section, "retailer" means a person or business entity engaged in this state in the business of selling products on a retail basis.

9. This section shall not apply to the following:

a. Any package of a product containing pseudoephedrine as the product's sole active ingredient which is in liquid form.

b. Any package of a product containing pseudoephedrine as the product's sole active ingredient which is primarily intended for administration to children under twelve years of age according to the label, regardless of whether the product is in liquid or solid form.

c. Any package of a product containing pseudoephedrine as the product's sole active ingredient that the board of pharmacy examiners, with the concurrence of the department of public safety, upon application of a manufacturer, exempts from this section because the product is formulated to effectively prevent conversion of the active ingredient into methamphetamine or its salts or precursors. The board of pharmacy examiners, with the concurrence of the

department of public safety, shall adopt rules pursuant to chapter 17A to administer this paragraph.

Sec. 2. Section 602.8105, Code Supplement 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The clerk of the district court shall collect a civil penalty assessed against a retailer pursuant to section 126.23A. Any moneys collected from the civil penalty shall be distributed to the state or a political subdivision of the state as provided in section 126.23A, subsection 7.

Sec. 3. **NEW SECTION.** 714.7C THEFT OF PSEUDOEPHEDRINE — ENHANCEMENT.

Notwithstanding section 714.2, subsection 5, a person who commits a simple misdemeanor theft of more than two packages containing any of the following commits a serious misdemeanor:

1. Pseudoephedrine as the product's sole active ingredient.
2. Pseudoephedrine in combination with other active ingredients.

A simple misdemeanor theft of more than two packages containing pseudoephedrine as the products' sole active ingredient which are in liquid form does not constitute a serious misdemeanor under this section.

Sec. 4. Section 805.8C, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 4. a. PSEUDOEPHEDRINE SALES VIOLATIONS. For a violation of section 126.23A, subsection 1, the scheduled fine is one hundred dollars.

b. For a violation of section 126.23A, subsection 1, 2, or 3, by a retailer, the scheduled fine is one hundred dollars, and is a civil penalty and the criminal penalty surcharge under section 911.2 shall not be added to the penalty, and the court costs pursuant to section 805.9, subsection 6, shall not be imposed.

Approved May 3, 2004

CHAPTER 1128

ILLEGAL DUMPING ENFORCEMENT OFFICERS

H.F. 2352

AN ACT relating to the appointment of illegal dumping enforcement officers and providing a penalty.

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

Section 1. **NEW SECTION.** 455B.307B ILLEGAL DUMPING ENFORCEMENT OFFICER.

1. For purposes of this section, "officer" means the illegal dumping enforcement officer in a county.

2. The board of supervisors of each county may annually appoint an illegal dumping enforcement officer for the county. The board of supervisors may appoint the officer from recommendations by the county board of health or may select a person outside the recommendations made by the county board of health. The board of supervisors shall appoint a person who