

# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Senate Bill 520 be amended to read as follows:

- 1           Page 3, after line 2, begin a new paragraph and insert:  
2           SECTION 3. IC 5-2-6-20 IS ADDED TO THE INDIANA CODE  
3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
4 1, 2007]: **Sec. 20. (a) The institute shall:**  
5           **(1) attempt to obtain federal funds to establish and operate**  
6           **a methamphetamine precursor data base pilot project under**  
7           **this section; and**  
8           **(2) if the institute obtains sufficient federal funds under**  
9           **subdivision (1), operate and maintain the pilot project.**  
10          **(b) A pilot project established under this section must connect**  
11          **persons who:**  
12           **(1) sell a drug that contains the active ingredient of**  
13           **ephedrine or pseudoephedrine, or both; and**  
14           **(2) record drug sales information in an electronic log under**  
15           **IC 35-48-4-14.7(c);**  
16          **to an electronic monitoring system that transfers the drug sales**  
17          **information to a central data base at the same time the drug sales**  
18          **information is recorded in the electronic log. Drug sales**  
19          **information may be transferred to the central data base from not**  
20          **more than six (6) counties under a pilot project established under**  
21          **this section.**  
22           **(c) Only a law enforcement officer who has the right to inspect**  
23           **and copy a log or the records from the completion of a log under**  
24           **IC 35-48-4-14.7(c) may have access to information stored in the**  
25           **central data base described in subsection (b). A person may not sell**  
26           **or release information in the central data base for a commercial**  
27           **purpose.**  
28           **(d) Information stored in a central data base established under**  
29           **this section must be retained until June 30, 2012.**  
30           **(e) This section expires June 30, 2012.**  
31          Page 6, after line 2, begin a new paragraph and insert:  
32          SECTION 10. IC 35-48-4-14.7, AS AMENDED BY  
33 P.L.151-2006, SECTION 27, IS AMENDED TO READ AS  
34 FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 14.7. (a) This section**  
35          **does not apply to the following:**  
36           **(1) Ephedrine or pseudoephedrine dispensed pursuant to a**  
37           **prescription.**

- 1 (2) The sale of a drug containing ephedrine or pseudoephedrine  
2 to a licensed health care provider, pharmacist, retail distributor,  
3 wholesaler, manufacturer, or an agent of any of these persons if  
4 the sale occurs in the regular course of lawful business activities.  
5 However, a retail distributor, wholesaler, or manufacturer is  
6 required to report a suspicious order to the state police  
7 department in accordance with subsection (f).  
8 (3) The sale of a drug containing ephedrine or pseudoephedrine  
9 by a person who does not sell exclusively to walk-in customers  
10 for the personal use of the walk-in customers. However, if the  
11 person described in this subdivision is a retail distributor,  
12 wholesaler, or manufacturer, the person is required to report a  
13 suspicious order to the state police department in accordance  
14 with subsection (f).
- 15 (b) The following definitions apply throughout this section:
- 16 (1) "Constant video monitoring" means the surveillance by an  
17 automated camera that:
- 18 (A) records at least one (1) photograph or digital image  
19 every ten (10) seconds;
- 20 (B) retains a photograph or digital image for at least  
21 seventy-two (72) hours;
- 22 (C) has sufficient resolution and magnification to permit the  
23 identification of a person in the area under surveillance; and  
24 (D) stores a recorded photograph or digital image at a  
25 location that is immediately accessible to a law enforcement  
26 officer.
- 27 (2) "Convenience package" means a package that contains a drug  
28 having as an active ingredient not more than one hundred twenty  
29 (120) milligrams of ephedrine or pseudoephedrine, or both.
- 30 (3) "Ephedrine" means pure or adulterated ephedrine.
- 31 (4) "Pseudoephedrine" means pure or adulterated  
32 pseudoephedrine.
- 33 (5) "Suspicious order" means a sale or transfer of a drug  
34 containing ephedrine or pseudoephedrine if the sale or transfer:
- 35 (A) is a sale or transfer that the retail distributor,  
36 wholesaler, or manufacturer is required to report to the  
37 United States Drug Enforcement Administration;
- 38 (B) appears suspicious to the retail distributor, wholesaler,  
39 or manufacturer in light of the recommendations contained  
40 in Appendix A of the report to the United States attorney  
41 general by the suspicious orders task force under the federal  
42 Comprehensive Methamphetamine Control Act of 1996; or  
43 (C) is for cash or a money order in a total amount of at least  
44 two hundred dollars (\$200).
- 45 (6) "Unusual theft" means the theft or unexplained  
46 disappearance from a particular retail store of drugs containing  
47 ten (10) grams or more of ephedrine, pseudoephedrine, or both  
48 in a twenty-four (24) hour period.
- 49 (c) This subsection does not apply to a convenience package. A  
50 person may sell a drug that contains the active ingredient of ephedrine,  
51 pseudoephedrine, or both only if the person complies with the

1 following conditions:

2 (1) The person does not sell the drug to a person less than  
3 eighteen (18) years of age.

4 (2) The person does not sell drugs containing more than three (3)  
5 grams of ephedrine or pseudoephedrine, or both in one (1)  
6 transaction.

7 (3) The person requires:

8 (A) the purchaser to produce a state or federal identification  
9 card;

10 (B) the purchaser to complete a paper or an electronic log  
11 in a format approved by the state police department with the  
12 purchaser's name, address, and driver's license or other  
13 identification number; and

14 (C) the clerk who is conducting the transaction to initial or  
15 electronically record the clerk's identification on the log.

16 Records from the completion of a log must be retained for at  
17 least two (2) years. A law enforcement officer has the right to  
18 inspect and copy a log or the records from the completion of a  
19 log in accordance with state and federal law. A person may not  
20 sell or release a log or the records from the completion of a log  
21 for a commercial purpose. The Indiana criminal justice institute  
22 may obtain information concerning a log or the records from the  
23 completion of a log from a law enforcement officer if the  
24 information may not be used to identify a specific individual and  
25 is used only for statistical purposes. A retailer who in good faith  
26 releases information maintained under this subsection is immune  
27 from civil liability unless the release constitutes gross negligence  
28 or intentional, wanton, or willful misconduct. This subdivision  
29 expires June 30, ~~2008~~ **2012**.

30 (4) The person stores the drug:

31 (A) behind a counter in an area inaccessible to a customer  
32 or in a locked display case that makes the drug unavailable  
33 to a customer without the assistance of an employee; or

34 (B) directly in front of the pharmacy counter in the direct  
35 line of sight of an employee at the pharmacy counter, in an  
36 area under constant video monitoring, if the drug is sold in  
37 a retail establishment that:

38 (i) is a pharmacy; or

39 (ii) contains a pharmacy that is open for business.

40 (d) A person may not purchase drugs containing more than three  
41 (3) grams of ephedrine, pseudoephedrine, or both in one (1) week.

42 (e) This subsection only applies to convenience packages. A  
43 person may not sell drugs containing more than one hundred twenty  
44 (120) milligrams of ephedrine or pseudoephedrine, or both in any one  
45 (1) transaction if the drugs are sold in convenience packages. A person  
46 who sells convenience packages must secure the convenience packages  
47 in at least one (1) of the following ways:

48 (1) The convenience package must be stored not more than thirty  
49 (30) feet away from a checkout station or counter and must be in  
50 the direct line of sight of an employee at the checkout station or

- 1 counter.
- 2 (2) The convenience package must be protected by a reliable  
3 anti-theft device that uses package tags and detection alarms  
4 designed to prevent theft.
- 5 (3) The convenience package must be stored in restricted access  
6 shelving that permits a purchaser to remove not more than one  
7 (1) package every fifteen (15) seconds.
- 8 (4) The convenience package must be stored in an area that is  
9 under constant video monitoring, and a sign placed near the  
10 convenience package must warn that the area is under constant  
11 video monitoring.
- 12 (f) A retail distributor, wholesaler, or manufacturer shall report a  
13 suspicious order to the state police department in writing.
- 14 (g) Not later than three (3) days after the discovery of an unusual  
15 theft at a particular retail store, the retailer shall report the unusual theft  
16 to the state police department in writing. If three (3) unusual thefts  
17 occur in a thirty (30) day period at a particular retail store, the retailer  
18 shall, for at least one hundred eighty (180) days after the date of the last  
19 unusual theft, locate all drugs containing ephedrine or pseudoephedrine  
20 at that particular retail store behind a counter in an area inaccessible to  
21 a customer or in a locked display case that makes the drug unavailable  
22 to customers without the assistance of an employee.
- 23 (h) A unit (as defined in IC 36-1-2-23) may not adopt an ordinance  
24 after February 1, 2005, that is more stringent than this section.
- 25 (i) A person who knowingly or intentionally violates this section  
26 commits a Class C misdemeanor. However, the offense is a Class A  
27 misdemeanor if the person has a prior unrelated conviction under this  
28 section.
- 29 (j) Before June 30, 2007, the state police department shall submit  
30 a report to the legislative council detailing the effectiveness of this  
31 section in reducing the illicit production of methamphetamine. The  
32 report must describe the number of arrests or convictions that are  
33 attributable to the identification and logging requirements contained in  
34 this section, and must include recommendations for future action. The  
35 report must be in an electronic format under IC 5-14-6.
- 36
- 37 Renumber all SECTIONS consecutively.

(Reference is to SB520 as printed February 23, 2007.)

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Senator SKINNER