Reprinted
March 22, 2013

ENGROSSED
SENATE BILL No. 496

DIGEST OF SB 496 (Updated March 21, 2013 11:40 am - DI 69)

Citations Affected: IC 34-30; IC 35-31.5; IC 35-46; IC 35-48.

Synopsis: Control of ephedrine and pseudoephedrine. Specifies that ephedrine or pseudoephedrine may be sold only by a pharmacy or a retailer that uses the NPLEx tracking system. Allows a retailer who: (1) does not use the NPLEx tracking system; and (2) meets certain other requirements; to sell ephedrine or pseudoephedrine in convenience packages until January 1, 2014. Provides that: (1) a pharmacy may not
(Continued next page)

Effective: July 1, 2013.

Yoder, Young R Michael, Randolph, Steele, Kruse
(HOUSE SPONSORS — MCMILLIN, STEUERWALD, LAWSON L)

January 14, 2013, read first time and referred to Committee on Corrections & Criminal Law.
January 31, 2013, amended, reported favorably — Do Pass.
February 5, 2013, read second time, amended, ordered engrossed.
February 6, 2013, engrossed.
February 7, 2013, pursuant to Senate Rule 35(c), Technical Correction.
February 8, 2013, re-engrossed.
February 11, 2013, read third time, passed. Yeas 44, nays 4.

HOUSE ACTION

February 26, 2013, read first time and referred to Committee on Courts and Criminal Code.
March 18, 2013, amended, reported — Do Pass.
March 21, 2013, read second time, amended, ordered engrossed.

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Digest Continued

sell more than 61.2 grams of ephedrine or pseudoephedrine to an individual in a 365 day period; and (2) an individual may not purchase more than 61.2 grams of ephedrine or pseudoephedrine in a 365 day period. Prohibits a person convicted of certain offenses involving methamphetamine from possessing ephedrine, pseudoephedrine, or phenylpropanolamine within seven years of the person's conviction, unless dispensed under a prescription. Increases the penalty for furnishing methamphetamine precursors to another person with knowledge that the recipient will use the precursors to manufacture a controlled substance if the person furnishes more than 10 grams of certain precursors. Removes a provision requiring certain signage where ephedrine or pseudoephedrine is sold.

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March 22, 2013

First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

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ENGROSSED
SENATE BILL No. 496

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 34-30-2-152.3, AS ADDED BY P.L.1-2006, SECTION 525, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 152.3. IC 35-48-4-14.7 (Concerning a **pharmacy or NPLEx** retailer who discloses information concerning the sale of a product containing ephedrine or pseudoephedrine).

SECTION 2. IC 35-31.5-2-256, AS ADDED BY P.L.114-2012, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 256. "Pseudoephedrine", for purposes of IC 35-48-4-14.7, has the meaning set forth in ~~IC 35-48-4-14.7(b)(4)~~ **IC 35-48-4-14.7.**

SECTION 3. IC 35-31.5-2-279, AS ADDED BY P.L.114-2012, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 279. "Retailer", for purposes of IC 35-48-4-14.7, has the meaning set forth in ~~IC 35-48-4-14.7(b)(5)~~ **IC 35-48-4-14.7.**

SECTION 4. IC 35-31.5-2-320, AS ADDED BY P.L.114-2012, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 320. "Suspicious order", for purposes of

IC 35-48-4-14.7, has the meaning set forth in ~~IC 35-48-4-14.7(b)(6)~~ **IC 35-48-4-14.7.**

SECTION 5. IC 35-31.5-2-343, AS ADDED BY P.L.114-2012, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 343. "Unusual theft", for purposes of IC 35-48-4-14.7, has the meaning set forth in ~~IC 35-48-4-14.7(b)(7)~~ **IC 35-48-4-14.7.**

SECTION 6. IC 35-46-1-4, AS AMENDED BY P.L.6-2012, SECTION 227, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. (a) A person having the care of a dependent, whether assumed voluntarily or because of a legal obligation, who knowingly or intentionally:

(1) places the dependent in a situation that endangers the dependent's life or health;

(2) abandons or cruelly confines the dependent;

(3) deprives the dependent of necessary support; or

(4) deprives the dependent of education as required by law;

commits neglect of a dependent, a Class D felony.

(b) However, the offense is:

(1) a Class C felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) and:

(A) results in bodily injury; or

(B) is:

(i) committed in a location where a person is violating IC 35-48-4-1 (delivery, financing, or manufacture of cocaine ~~methamphetamine,~~ or a narcotic drug) **or IC 35-48-4-1.1 (delivery, financing, or manufacture of methamphetamine);** or

(ii) the result of a violation of IC 35-48-4-1 (delivery, financing, or manufacture of cocaine ~~methamphetamine,~~ or a narcotic drug) **or IC 35-48-4-1.1 (delivery, financing, or manufacture of methamphetamine);**

(2) a Class B felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) and results in serious bodily injury;

(3) a Class A felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) by a person at least eighteen (18) years of age and results in the death of a dependent who is less than fourteen (14) years of age; and

(4) a Class C felony if it is committed under subsection (a)(2) and consists of cruel confinement or abandonment that:

(A) deprives a dependent of necessary food, water, or sanitary facilities;

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(B) consists of confinement in an area not intended for human habitation; or

(C) involves the unlawful use of handcuffs, a rope, a cord, tape, or a similar device to physically restrain a dependent.

(c) It is a defense to a prosecution based on an alleged act under this section that:

(1) the accused person left a dependent child who was, at the time the alleged act occurred, not more than thirty (30) days of age with an emergency medical provider who took custody of the child under IC 31-34-2.5 when:

(A) the prosecution is based solely on the alleged act of leaving the child with the emergency medical services provider; and

(B) the alleged act did not result in bodily injury or serious bodily injury to the child; or

(2) the accused person, in the legitimate practice of the accused person's religious belief, provided treatment by spiritual means through prayer, in lieu of medical care, to the accused person's dependent.

(d) Except for property transferred or received:

(1) under a court order made in connection with a proceeding under IC 31-15, IC 31-16, IC 31-17, or IC 31-35 (or IC 31-1-11.5 or IC 31-6-5 before their repeal); or

(2) under section 9(b) of this chapter;

a person who transfers or receives any property in consideration for the termination of the care, custody, or control of a person's dependent child commits child selling, a Class D felony.

SECTION 7. IC 35-48-4-14.5, AS AMENDED BY P.L.151-2006, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 14.5. (a) As used in this section, "chemical reagents or precursors" refers to one (1) or more of the following:

(1) Ephedrine.

(2) Pseudoephedrine.

(3) Phenylpropanolamine.

(4) The salts, isomers, and salts of isomers of a substance identified in subdivisions (1) through (3).

(5) Anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1).

(6) Organic solvents.

(7) Hydrochloric acid.

(8) Lithium metal.

(9) Sodium metal.

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(10) Ether.
(11) Sulfuric acid.
(12) Red phosphorous.
(13) Iodine.
(14) Sodium hydroxide (lye).
(15) Potassium dichromate.
(16) Sodium dichromate.
(17) Potassium permanganate.
(18) Chromium trioxide.
(19) Benzyl cyanide.
(20) Phenylacetic acid and its esters or salts.
(21) Piperidine and its salts.
(22) Methylamine and its salts.
(23) Isosafrole.
(24) Safrole.
(25) Piperonal.
(26) Hydriodic acid.
(27) Benzaldehyde.
(28) Nitroethane.
(29) Gamma-butyrolactone.
(30) White phosphorus.
(31) Hypophosphorous acid and its salts.
(32) Acetic anhydride.
(33) Benzyl chloride.
(34) Ammonium nitrate.
(35) Ammonium sulfate.
(36) Hydrogen peroxide.
(37) Thionyl chloride.
(38) Ethyl acetate.
(39) Pseudoephedrine hydrochloride.

(b) A person who possesses more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated, commits a Class D felony. However, the offense is a Class C felony if the person possessed:

(1) a firearm while possessing more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated; or

(2) more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated, in, on, or within one thousand (1,000) feet of:

(A) school property;

(B) a public park;

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(C) a family housing complex; or
(D) a youth program center.

(c) A person who possesses anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with the intent to manufacture methamphetamine or amphetamine, schedule II controlled substances under IC 35-48-2-6, commits a Class D felony. However, the offense is a Class C felony if the person possessed:

(1) a firearm while possessing anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine or amphetamine, schedule II controlled substances under IC 35-48-2-6; or

(2) anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine or amphetamine, schedule II controlled substances under IC 35-48-2-6, in, on, or within one thousand (1,000) feet of:

(A) school property;
(B) a public park;
(C) a family housing complex; or
(D) a youth program center.

(d) Subsection (b) does not apply to a:

(1) licensed health care provider, pharmacist, retail distributor, wholesaler, manufacturer, warehouseman, or common carrier or an agent of any of these persons if the possession is in the regular course of lawful business activities; or

(2) person who possesses more than ten (10) grams of a substance described in subsection (b) if the substance is possessed under circumstances consistent with typical medicinal or household use, including:

(A) the location in which the substance is stored;
(B) the possession of the substance in a variety of:
(i) strengths;
(ii) brands; or
(iii) types; or
(C) the possession of the substance:
(i) with different expiration dates; or
(ii) in forms used for different purposes.

(e) A person who possesses two (2) or more chemical reagents or precursors with the intent to manufacture a controlled substance commits a Class D felony.

(f) An offense under subsection (e) is a Class C felony if the person possessed:

(1) a firearm while possessing two (2) or more chemical reagents

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or precursors with intent to manufacture a controlled substance; or

(2) two (2) or more chemical reagents or precursors with intent to manufacture a controlled substance in, on, or within one thousand (1,000) feet of:

(A) school property;

(B) a public park;

(C) a family housing complex; or

(D) a youth program center.

(g) A person who sells, transfers, distributes, or furnishes a chemical reagent or precursor to another person with knowledge or the intent that the recipient will use the chemical reagent or precursors to manufacture a controlled substance commits unlawful sale of a precursor, a Class D felony. **However, the offense is a Class C felony if the person sells, transfers, distributes, or furnishes more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine.**

(h) This subsection does not apply to a drug containing ephedrine, pseudoephedrine, or phenylpropanolamine that is dispensed under a prescription. A person who:

(1) has been convicted of:

(A) dealing in methamphetamine (IC 35-48-4-1.1);

(B) possession of more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine (subsection (b));

(C) possession of anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine or amphetamine (subsection (c));

(D) possession of two (2) or more chemical reagents or precursors with the intent to manufacture a controlled substance (subsection (e)); or

(E) unlawful sale of a precursor (subsection (g)); and

(2) not later than seven (7) years from the date the person was sentenced for the offense;

knowingly or intentionally possesses ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated, commits possession of a precursor by a methamphetamine offender, a Class D felony.

SECTION 8. IC 35-48-4-14.7, AS AMENDED BY P.L.221-2011, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 14.7. (a) This section does not apply to the following:

(1) Ephedrine or pseudoephedrine dispensed pursuant to a prescription.

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(2) The sale of a drug containing ephedrine or pseudoephedrine to a licensed health care provider, pharmacist, retail distributor, wholesaler, manufacturer, or an agent of any of these persons if the sale occurs in the regular course of lawful business activities. However, a retail distributor, wholesaler, or manufacturer is required to report a suspicious order to the state police department in accordance with subsection ~~(f).~~ **(g).**

(3) The sale of a drug containing ephedrine or pseudoephedrine by a person who does not sell exclusively to walk-in customers for the personal use of the walk-in customers. However, if the person described in this subdivision is a retail distributor, wholesaler, or manufacturer, the person is required to report a suspicious order to the state police department in accordance with subsection ~~(f).~~ **(g).**

(b) The following definitions apply throughout this section:

(1) "Constant video monitoring" means the surveillance by an automated camera that:

(A) records at least one (1) photograph or digital image every ten (10) seconds;

(B) retains a photograph or digital image for at least seventy-two (72) hours;

(C) has sufficient resolution and magnification to permit the identification of a person in the area under surveillance; and

(D) stores a recorded photograph or digital image at a location that is immediately accessible to a law enforcement officer.

(2) "Convenience package" means a package that contains a drug having as an active ingredient not more than sixty (60) milligrams of ephedrine or pseudoephedrine, or both.

(3) "Ephedrine" means pure or adulterated ephedrine.

(4) "Pharmacy or NPLEx retailer" means:

(A) a pharmacy, as defined in IC 25-26-13-2;

(B) a retailer containing a pharmacy, as defined in IC 25-26-13-2; or

(C) a retailer that electronically submits the required information to the National Precursor Log Exchange (NPLEx) administered by the National Association of Drug Diversion Investigators (NADDI).

~~(4)~~ **(5)** "Pseudoephedrine" means pure or adulterated pseudoephedrine.

~~(5)~~ **(6)** "Retailer" means a grocery store, general merchandise store, ~~drug store,~~ or other similar establishment. ~~where ephedrine or pseudoephedrine products are available for sale.~~ **The term**

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does not include a pharmacy or NPLEx retailer.

~~(6)~~ **(7)** "Suspicious order" means a sale or transfer of a drug containing ephedrine or pseudoephedrine if the sale or transfer:

(A) is a sale or transfer that the retail distributor, wholesaler, or manufacturer is required to report to the United States Drug Enforcement Administration;

(B) appears suspicious to the retail distributor, wholesaler, or manufacturer in light of the recommendations contained in Appendix A of the report to the United States attorney general by the suspicious orders task force under the federal Comprehensive Methamphetamine Control Act of 1996; or

(C) is for cash or a money order in a total amount of at least two hundred dollars ($200).

~~(7)~~ **(8)** "Unusual theft" means the theft or unexplained disappearance from a particular ~~retail store~~ **pharmacy or NPLEx retailer** of drugs containing ten (10) grams or more of ephedrine, pseudoephedrine, or both in a twenty-four (24) hour period.

(c) A drug containing ephedrine or pseudoephedrine may be sold only by a pharmacy or NPLEx retailer. Except as provided in subsection (f), a retailer may not sell a drug containing ephedrine or pseudoephedrine.

~~(c) This subsection does not apply to a convenience package.~~ **(d)** A ~~retailer~~ **pharmacy or NPLEx retailer** may sell a drug that contains the active ingredient of ephedrine, pseudoephedrine, or both only if the ~~retailer~~ **pharmacy or NPLEx retailer** complies with the following conditions:

(1) The ~~retailer~~ **pharmacy or NPLEx retailer** does not sell the drug to a person less than eighteen (18) years of age.

(2) The ~~retailer~~ **pharmacy or NPLEx retailer** does not sell drugs containing more than:

(A) three and six-tenths (3.6) grams of ephedrine or pseudoephedrine, or both, to one (1) individual on one (1) day; ~~or~~

(B) seven and two-tenths (7.2) grams of ephedrine or pseudoephedrine, or both, to one (1) individual in a thirty (30) day period; **or**

(C) sixty-one and two-tenths (61.2) grams of ephedrine or pseudoephedrine, or both, to one (1) individual in a three hundred sixty-five (365) day period.

(3) The ~~retailer~~ **pharmacy or NPLEx retailer** requires:

(A) the purchaser to produce a valid government issued photo identification card showing the date of birth of the person;

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(B) the purchaser to sign a written or electronic log attesting to the validity of the information; and

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

Records from the completion of a log must be retained for at least two (2) years. A law enforcement officer has the right to inspect and copy a log or the records from the completion of a log in accordance with state and federal law. A ~~retailer~~ **pharmacy or NPLEx retailer** may not sell or release a log or the records from the completion of a log for a commercial purpose. The Indiana criminal justice institute may obtain information concerning a log or the records from the completion of a log from a law enforcement officer if the information may not be used to identify a specific individual and is used only for statistical purposes. A ~~retailer who~~ **pharmacy or NPLEx retailer that** in good faith releases information maintained under this subsection is immune from civil liability unless the release constitutes gross negligence or intentional, wanton, or willful misconduct.

(4) The ~~retailer~~ **pharmacy or NPLEx retailer** maintains a record of information for each sale of a nonprescription product containing pseudoephedrine or ephedrine. Required information includes:

(A) the name and address of each purchaser;

(B) the type of identification presented;

(C) the governmental entity that issued the identification;

(D) the identification number; and

(E) the ephedrine or pseudoephedrine product purchased, including the number of grams the product contains and the date and time of the transaction.

(5) Beginning January 1, 2012, a ~~retailer~~ **pharmacy or NPLEx retailer** shall, except as provided in subdivision (6), before completing a sale of an over-the-counter product containing pseudoephedrine or ephedrine, electronically submit the required information to the National Precursor Log Exchange (NPLEx) administered by the National Association of Drug Diversion Investigators (NADDI), if the NPLEx system is available to ~~retailers~~ **pharmacies or NPLEx retailers** in the state without a charge for accessing the system. The ~~retailer~~ **pharmacy or NPLEx retailer** may not complete the sale if the system generates a stop sale alert.

(6) If a ~~retailer~~ **pharmacy or NPLEx retailer** selling an over-the-counter product containing ephedrine or

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pseudoephedrine experiences mechanical or electronic failure of the electronic sales tracking system and is unable to comply with the electronic sales tracking requirement, the ~~retailer~~ **pharmacy or NPLEx retailer** shall maintain a written log or an alternative electronic recordkeeping mechanism until the ~~retailer~~ **pharmacy or NPLEx retailer** is able to comply with the electronic sales tracking requirement.

(7) The ~~retailer~~ **pharmacy or NPLEx retailer** stores the drug behind a counter in an area inaccessible to a customer or in a locked display case that makes the drug unavailable to a customer without the assistance of an employee.

~~(8) The retailer posts a sign warning that:~~

~~(A) it is a criminal offense for a person to purchase drugs containing more than seven and two-tenths (7.2) grams of ephedrine or pseudoephedrine, or both, in a thirty (30) day period;~~

~~(B) it is a criminal offense for a person to purchase drugs containing more than three and six-tenths (3.6) grams of ephedrine or pseudoephedrine, or both, on one (1) day; and~~

~~(C) depending on the amount of ephedrine or pseudoephedrine contained in the drug, purchasing more than one (1) package of drugs containing ephedrine or pseudoephedrine on one (1) day may be a crime.~~

~~The warning sign must list maximum amounts of ephedrine or pseudoephedrine that may be purchased in both grams and milligrams.~~

~~(d)~~ **(e)** A person may not purchase drugs containing more than:

(1) three and six-tenths (3.6) grams of ephedrine or pseudoephedrine, or both, on one (1) day; ~~or more than~~

(2) seven and two-tenths (7.2) grams of ephedrine or pseudoephedrine, or both, in a thirty (30) day period; **or**

(3) sixty-one and two-tenths (61.2) grams of ephedrine or pseudoephedrine, or both, in a three hundred sixty-five (365) day period.

These limits apply to the total amount of base ephedrine and pseudoephedrine contained in the products and not to the overall weight of the products.

~~(e)~~ **(f)** This subsection only applies to convenience packages. **A retailer may sell convenience packages under this section without complying with the conditions listed in subsection (d):**

(1) after June 30, 2013; and

(2) before January 1, 2014.

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A retailer may not sell drugs containing more than sixty (60) milligrams of ephedrine or pseudoephedrine, or both in any one (1) transaction. ~~if the drugs are sold in convenience packages.~~ A retailer who sells convenience packages must secure the convenience packages behind the counter in an area inaccessible to a customer or in a locked display case that makes the drug unavailable to a customer without the assistance of an employee. **A retailer may not sell a drug containing ephedrine or pseudoephedrine after December 31, 2013.**

~~(f)~~ **(g)** A retail distributor, wholesaler, or manufacturer shall report a suspicious order to the state police department in writing.

~~(g)~~ **(h)** Not later than three (3) days after the discovery of an unusual theft at a particular retail store, the ~~retailer~~ **pharmacy or NPLEx retailer** shall report the unusual theft to the state police department in writing. If three (3) unusual thefts occur in a thirty (30) day period at a particular ~~retail store,~~ **pharmacy or NPLEx retailer,** the ~~retailer~~ **pharmacy or NPLEx retailer** shall, for at least one hundred eighty (180) days after the date of the last unusual theft, locate all drugs containing ephedrine or pseudoephedrine at that particular ~~retail store~~ **pharmacy or NPLEx retailer** behind a counter in an area inaccessible to a customer or in a locked display case that makes the drug unavailable to customers without the assistance of an employee.

~~(h)~~ **(i)** A unit (as defined in IC 36-1-2-23) may not adopt an ordinance after February 1, 2005, that is more stringent than this section.

~~(i)~~ **(j)** A person who knowingly or intentionally violates this section commits a Class C misdemeanor. However, the offense is a Class A misdemeanor if the person has a prior unrelated conviction under this section.

~~(j)~~ **(k)** A ~~retailer who~~ **pharmacy or NPLEx retailer that** uses the electronic sales tracking system in accordance with this section is immune from civil liability for any act or omission committed in carrying out the duties required by this section, unless the act or omission was due to negligence, recklessness, or deliberate or wanton misconduct. A ~~retailer~~ **pharmacy or NPLEx retailer** is immune from liability to a third party unless the ~~retailer~~ **pharmacy or NPLEx retailer** has violated a provision of this section and the third party brings an action based on the ~~retailer's~~ **pharmacy's or NPLEx retailer's** violation of this section.

~~(k)~~ **(l)** The following requirements apply to the NPLEx:

(1) Information contained in the NPLEx may be shared only with law enforcement officials.

(2) A law enforcement official may access Indiana transaction

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information maintained in the NPLEx for investigative purposes.
(3) NADDI may not modify sales transaction data that is shared with law enforcement officials.
(4) At least one (1) time per week, NADDI shall forward Indiana data contained in the NPLEx, including data concerning a transaction that could not be completed due to the issuance of a stop sale alert, to the state police department.

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 496, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 17.

Delete pages 2 through 3.

Page 4, delete lines 1 through 14.

Page 9, line 26, delete ""Pharmacy"" and insert "**"Pharmacy or NPLEx retailer""**".

Page 9, line 27, delete "or".

Page 9, line 29, delete "." and insert "**; or**

(C) a retailer that electronically submits the required information to the National Precursor Log Exchange (NPLEx) administered by the National Association of Drug Diversion Investigators (NADDI).".

Page 9, line 33, strike "where ephedrine" and insert ".".

Page 9, line 34, strike "or pseudoephedrine products are available for sale.".

Page 9, line 35, after "pharmacy" insert "**or NPLEx retailer**".

Page 10, line 7, after "pharmacy" insert "**or NPLEx retailer**".

Page 10, line 11, after "pharmacy" insert "**or NPLEx retailer**".

Page 10, line 12, delete "A drug containing ephedrine or".

Page 10, delete line 13.

Page 10, line 14, reset in roman "This subsection does not apply to a convenience package.".

Page 10, line 15, after "pharmacy" insert "**or NPLEx retailer**".

Page 10, line 16, after "pharmacy" insert "**or NPLEx retailer**".

Page 10, line 18, after "pharmacy" insert "**or NPLEx retailer**".

Page 10, line 20, after "pharmacy" insert "**or NPLEx retailer**".

Page 10, line 28, delete "seventy-two (72)" and insert "**sixty-one and two-tenths (61.2)**".

Page 10, line 31, after "pharmacy" insert "**or NPLEx retailer**".

Page 10, line 41, after "pharmacy" insert "**or NPLEx retailer**".

Page 11, line 5, delete "pharmacy".

Page 11, line 5, strike "who".

Page 11, line 5, after "who" insert "**pharmacy or NPLEx retailer that**".

Page 11, line 9, after "pharmacy" insert "**or NPLEx retailer**".

Page 11, line 19, after "pharmacy" insert "**or NPLEx retailer**".

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Page 11, line 25, after "pharmacies" insert "**or NPLEx retailers**".
Page 11, line 27, after "pharmacy" insert "**or NPLEx retailer**".
Page 11, line 29, after "pharmacy" insert "**or NPLEx retailer**".
Page 11, line 33, after "pharmacy" insert "**or NPLEx retailer**".
Page 11, line 35, after "pharmacy" insert "**or NPLEx retailer**".
Page 11, line 37, after "pharmacy" insert "**or NPLEx retailer**".
Page 11, line 41, strike "(8) The".
Page 11, line 41, delete "pharmacy".
Page 11, line 41, strike "posts a warning sign that:".
Page 11, delete line 42.
Page 12, delete lines 1 through 3.
Page 12, line 4, delete "(B)".
Page 12, line 4, strike "it is a criminal offense for a person to purchase drugs".
Page 12, strike lines 5 through 7.
Page 12, line 8, delete "(C)".
Page 12, line 8, strike "it is a criminal offense for a person to purchase drugs".
Page 12, strike lines 9 through 10.
Page 12, line 11, delete "(D)".
Page 12, line 11, strike "depending on the amount of ephedrine or".
Page 12, strike lines 12 through 17.
Page 12, line 28, after "(e)" insert "**(f)**".
Page 12, line 28, reset in roman "This subsection only applies to convenience packages.".
Page 12, line 31, reset in roman "A".
Page 12, line 31, after "A" insert "**pharmacy or NPLEx**".
Page 12, line 31, before "sells" insert "**that**".
Page 12, line 31, reset in roman "sells".
Page 12, reset in roman lines 32 through 35.
Page 12, line 36, strike "(f)" and insert "**(g)**".
Page 12, line 38, strike "(g)" and insert "**(h)**".
Page 12, line 39, after "pharmacy" insert "**or NPLEx retailer**".
Page 12, line 42, after "store, pharmacy" insert "**or NPLEx retailer**".
Page 12, line 42, after "retailer pharmacy" insert "**or NPLEx retailer**".
Page 13, line 3, after "pharmacy" insert "**or NPLEx retailer**".
Page 13, line 12, delete "pharmacy".
Page 13, line 12, strike "who".
Page 13, line 12, after "who" insert "**pharmacy or NPLEx retailer that**".

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Page 13, line 16, after "pharmacy" insert "**or NPLEx retailer**".
Page 13, line 17, after "pharmacy" insert "**or NPLEx retailer**".
Page 13, line 19, after "pharmacy's" insert "**or NPLEx retailer's**".
Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 496 as introduced.)

YOUNG R MICHAEL, Chairperson

Committee Vote: Yeas 10, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 496 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 35-31.5-2-256, AS ADDED BY P.L.114-2012, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 256. "Pseudoephedrine", for purposes of IC 35-48-4-14.7, has the meaning set forth in ~~IC 35-48-4-14.7(b)(4)~~ **IC 35-48-4-14.7.**

SECTION 2. IC 35-31.5-2-279, AS ADDED BY P.L.114-2012, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 279. "Retailer", for purposes of IC 35-48-4-14.7, has the meaning set forth in ~~IC 35-48-4-14.7(b)(5)~~ **IC 35-48-4-14.7.**

SECTION 3. IC 35-31.5-2-320, AS ADDED BY P.L.114-2012, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 320. "Suspicious order", for purposes of IC 35-48-4-14.7, has the meaning set forth in ~~IC 35-48-4-14.7(b)(6)~~ **IC 35-48-4-14.7.**

SECTION 4. IC 35-31.5-2-343, AS ADDED BY P.L.114-2012, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 343. "Unusual theft", for purposes of IC 35-48-4-14.7, has the meaning set forth in ~~IC 35-48-4-14.7(b)(7)~~ **IC 35-48-4-14.7.**".

Page 5, line 38, delete "a methamphetamine offense" and insert "**:**

(A) dealing in methamphetamine (IC 35-48-4-1.1);

(B) possession of more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine (IC 35-48-4-14.5(b));

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(C) possession of anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine or amphetamine (IC 35-48-4-14.5(c));
(D) possession of two (2) or more chemical reagents or precursors with the intent to manufacture a controlled substance (IC 35-48-4-14.5(e)); or
(E) unlawful sale of a precursor (IC 35-48-4-14.5(g)); and".

Page 5, delete line 39.

Page 5, line 41, delete "methamphetamine".

Page 6, line 15, strike "(f)." and insert "**(g).**".

Page 6, line 21, strike "(f)." and insert "**(g).**".

Page 9, line 38, delete "seventy-two (72)" and insert "**sixty-one and two-tenths (61.2)**".

Page 10, line 22, strike "(h)" and insert "**(i)**".

Page 10, line 24, strike "(i)" and insert "**(j)**".

Page 10, line 28, strike "(j)" and insert "**(k)**".

Page 10, line 38, strike "(k)" and insert "**(l)**".

Renumber all SECTIONS consecutively.

(Reference is to SB 496 as printed February 1, 2013.)

YODER

SENATE MOTION

Madam President: I move that Senate Bill 496 be amended to read as follows:

Page 4, line 9, after "is" insert ":
(1)".

Page 4, line 11, beginning with "(1)" begin a new line double block indented.

Page 4, line 11, strike "(1)" and insert "**(A)**".

Page 4, line 14, beginning with "(2)" begin a new line double block indented.

Page 4, line 14, strike "(2)" and insert "**(B)**".

Page 4, line 17, beginning with "(A)" begin a new line triple block indented.

Page 4, line 17, strike "(A)" and insert "**(i)**".

Page 4, line 18, beginning with "(B)" begin a new line triple block indented.

Page 4, line 18, strike "(B)" and insert "**(ii)**".

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Page 4, line 19, beginning with "(C)" begin a new line triple block indented.

Page 4, line 19, strike "(C)" and insert "**(iii)**".

Page 4, line 20, beginning with "(D)" begin a new line triple block indented.

Page 4, line 20, strike "(D)" and insert "**(iv)**".

Page 4, line 20, delete "." and insert "; **and**".

Page 4, between lines 20 and 21, begin a new line block indented and insert:

"**(2) a Class B felony if the person, while possessing more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated, damages:**

(A) a dwelling of another person without the other person's consent;

(B) property of any person under circumstances that endanger human life;

(C) property of another person without the other person's consent if the pecuniary loss is at least five thousand dollars ($5,000); or

(D) a structure used for religious worship without the consent of the owner of the structure;

by means of fire or explosion; or

(3) a Class A felony if the person, while possessing more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated, causes a fire or explosion that results in serious bodily injury to another person.".

(Reference is to SB 496 as printed February 1, 2013.)

TALLIAN

COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure reports that pursuant to Senate Rule 35(c), the following technical corrections are to be made to Engrossed Senate Bill 496.

Page 7, delete line 3.

LONG, Chairperson

(Reference is to ESB 496 as printed February 6, 2013.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 496, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 34-30-2-152.3, AS ADDED BY P.L.1-2006, SECTION 525, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 152.3. IC 35-48-4-14.7 (Concerning a **pharmacy or NPLEx** retailer who discloses information concerning the sale of a product containing ephedrine or pseudoephedrine).".

Page 4, delete lines 26 through 42, begin a new paragraph and insert:

"(b) A person who possesses more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated, commits a Class D felony. However, the offense is a Class C felony if the person possessed:

(1) a firearm while possessing more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated; or

(2) more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated, in, on, or within one thousand (1,000) feet of:

(A) school property;

(B) a public park;

(C) a family housing complex; or

(D) a youth program center.".

Page 5, delete lines 1 through 15.

Page 6, line 37, delete "(IC 35-48-4-14.5(b));" and insert "**(subsection (b));**".

Page 6, line 40, delete "(IC 35-48-4-14.5(c));" and insert "**(subsection (c));**".

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Page 7, line 1, delete "(IC 35-48-4-14.5(e));" and insert "**(subsection (e));**".

Page 7, line 2, delete "(IC 35-48-4-14.5(g));" and insert "**(subsection (g));**".

Page 11, line 12, reset in roman "retailer".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 496 as printed February 8, 2013, Technical Correction.)

MCMILLIN, Chair

Committee Vote: yeas 12, nays 0.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 496 be amended to read as follows:

Page 8, line 19, delete "A" and insert "**Except as provided in subsection (f),** a".

Page 8, line 21, delete "(d)".

Page 8, line 21, strike "This subsection does not apply to a convenience package." and insert "**(d)**".

Page 10, delete lines 37 through 42, begin a new paragraph and insert:

"~~(e)~~ **(f)** This subsection only applies to convenience packages. **A retailer may sell convenience packages under this section without complying with the conditions listed in subsection (d):**

(1) after June 30, 2013; and

(2) before January 1, 2014.

A retailer may not sell drugs containing more than sixty (60) milligrams of ephedrine or pseudoephedrine, or both in any one (1) transaction. ~~if the drugs are sold in convenience packages.~~ A retailer who sells convenience packages must secure the convenience packages behind the counter in an area inaccessible to a customer or in a locked display case that makes the drug unavailable to a customer without the

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assistance of an employee. **A retailer may not sell a drug containing ephedrine or pseudoephedrine after December 31, 2013.**".

Page 11, delete lines 1 through 2.

(Reference is to ESB 496 as printed March 19, 2013.)

MCMILLIN

C o p y