
SENATE BILL No. 496

DIGEST OF INTRODUCED BILL

Citations Affected: IC 10-13-8; IC 33-24-6-3; IC 35-46-1-4; IC 35-48-4.

Synopsis: Control of ephedrine and pseudoephedrine. Requires the state police department to establish and maintain the Indiana methamphetamine manufacturer registry, an electronic data base containing information relating to persons who have been convicted of certain offenses involving the manufacture of methamphetamine. Requires the division of state court administration to provide advice and assistance to the state police department concerning data collection for the methamphetamine registry. Specifies that ephedrine or pseudoephedrine: (1) may be sold only by a pharmacy (including a retailer containing a pharmacy); and (2) may not be sold in a convenience package. Provides that: (1) a pharmacy may not sell more than 72 grams of ephedrine or pseudoephedrine to an individual in a 365 day period; and (2) an individual may not purchase more than 72 grams of ephedrine or pseudoephedrine in a 365 day period. Prohibits a person convicted of a methamphetamine offense 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 controlled substance if the person furnishes more than 10 grams of certain precursors.

Effective: July 1, 2013.

Yoder

January 14, 2013, read first time and referred to Committee on Corrections & Criminal Law.



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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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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:

1 SECTION 1. IC 10-13-8 IS ADDED TO THE INDIANA CODE AS
 2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 3 1, 2013]:
 4 **Chapter 8. Indiana Methamphetamine Manufacturer Registry**
 5 **Sec. 1. The following definitions apply throughout this chapter:**
 6 **(1) "Methamphetamine offense" means one (1) or more of the**
 7 **following offenses:**
 8 **(A) Dealing in methamphetamine (IC 35-48-4-1.1).**
 9 **(B) Possession of more than ten (10) grams of ephedrine,**
 10 **pseudoephedrine, or phenylpropanolamine**
 11 **(IC 35-48-4-14.5(b)).**
 12 **(C) Possession of anhydrous ammonia or ammonia**
 13 **solution (as defined in IC 22-11-20-1) with intent to**
 14 **manufacture methamphetamine or amphetamine**
 15 **(IC 35-48-4-14.5(c)).**
 16 **(D) Possession of two (2) or more chemical reagents or**
 17 **precursors with the intent to manufacture a controlled**



- 1 substance (IC 35-48-4-14.5(e)).
- 2 (E) Unlawful sale of a precursor (IC 35-48-4-14.5(g)).
- 3 (2) "Offense information" means, with respect to a person
- 4 convicted of a methamphetamine offense:
- 5 (A) the name, current residence address, and date of birth
- 6 of the person convicted of the methamphetamine offense;
- 7 (B) the methamphetamine offense of which the person was
- 8 convicted;
- 9 (C) the date and county of conviction for the
- 10 methamphetamine offense; and
- 11 (D) any other relevant information concerning the person
- 12 or methamphetamine offense required by a rule adopted
- 13 by the department.

14 (3) "Registry" means the Indiana methamphetamine
 15 manufacturer registry established by this chapter.

16 **Sec. 2. The Indiana methamphetamine manufacturer registry is**
 17 **established within the department. The registry consists of an**
 18 **electronic data base of offense information. The department shall**
 19 **make offense information available on an Internet web site to:**

- 20 (1) the general public, for information determined by rule to
- 21 be appropriate for public disclosure; and
- 22 (2) a law enforcement officer or agency.

23 **Sec. 3. Offense information contained in the registry shall be**
 24 **removed seven (7) years after the date on which the person is**
 25 **sentenced for the methamphetamine offense.**

26 **Sec. 4. (a) The superintendent shall designate staff responsible**
 27 **for the operation of the registry.**

- 28 (b) The staff's duties include the following:
- 29 (1) Establishing and maintaining the registry.
- 30 (2) Cooperating with courts, law enforcement, pharmacies,
- 31 and members of the public in collecting and disseminating
- 32 offense information.
- 33 (3) Any other duties assigned by the superintendent
- 34 concerning the operation of the registry.

35 **Sec. 5. The superintendent shall adopt rules under IC 4-22-2 to**
 36 **implement this chapter.**

37 SECTION 2. IC 33-24-6-3, AS AMENDED BY P.L.1-2010,
 38 SECTION 132, IS AMENDED TO READ AS FOLLOWS
 39 [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) The division of state court
 40 administration shall do the following:

- 41 (1) Examine the administrative and business methods and systems
- 42 employed in the offices of the clerks of court and other offices

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1 related to and serving the courts and make recommendations for
2 necessary improvement.

3 (2) Collect and compile statistical data and other information on
4 the judicial work of the courts in Indiana. All justices of the
5 supreme court, judges of the court of appeals, judges of all trial
6 courts, and any city or town courts, whether having general or
7 special jurisdiction, court clerks, court reporters, and other
8 officers and employees of the courts shall, upon notice by the
9 executive director and in compliance with procedures prescribed
10 by the executive director, furnish the executive director the
11 information as is requested concerning the nature and volume of
12 judicial business. The information must include the following:

13 (A) The volume, condition, and type of business conducted by
14 the courts.

15 (B) The methods of procedure in the courts.

16 (C) The work accomplished by the courts.

17 (D) The receipt and expenditure of public money by and for
18 the operation of the courts.

19 (E) The methods of disposition or termination of cases.

20 (3) Prepare and publish reports, not less than one (1) or more than
21 two (2) times per year, on the nature and volume of judicial work
22 performed by the courts as determined by the information
23 required in subdivision (2).

24 (4) Serve the judicial nominating commission and the judicial
25 qualifications commission in the performance by the commissions
26 of their statutory and constitutional functions.

27 (5) Administer the civil legal aid fund as required by IC 33-24-12.

28 (6) Administer the judicial technology and automation project
29 fund established by section 12 of this chapter.

30 (7) Develop a standard protocol for the exchange of information,
31 by not later than December 31, 2009:

32 (A) between the protective order registry, established by
33 IC 5-2-9-5.5, and county court case management systems;

34 (B) at the option of the county prosecuting attorney, for:

35 (i) a prosecuting attorney's case management system;

36 (ii) a county court case management system; and

37 (iii) a county court case management system developed and
38 operated by the division of state court administration;

39 to interface with the electronic traffic tickets, as defined by
40 IC 9-30-3-2.5; and

41 (C) between county court case management systems and the
42 case management system developed and operated by the

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- 1 division of state court administration.
- 2 (8) Establish and administer an electronic system for receiving
- 3 information that relates to certain individuals who may be
- 4 prohibited from possessing a firearm and transmitting this
- 5 information to the Federal Bureau of Investigation for inclusion
- 6 in the NICS.
- 7 **(9) Provide advice and assistance to the state police**
- 8 **department concerning the collection of data needed for**
- 9 **operation of the Indiana methamphetamine manufacturer**
- 10 **registry (IC 10-13-8).**
- 11 (b) All forms to be used in gathering data must be approved by the
- 12 supreme court and shall be distributed to all judges and clerks before
- 13 the start of each period for which reports are required.
- 14 (c) The division may adopt rules to implement this section.
- 15 SECTION 3. IC 35-46-1-4, AS AMENDED BY P.L.6-2012,
- 16 SECTION 227, IS AMENDED TO READ AS FOLLOWS
- 17 [EFFECTIVE JULY 1, 2013]: Sec. 4. (a) A person having the care of
- 18 a dependent, whether assumed voluntarily or because of a legal
- 19 obligation, who knowingly or intentionally:
- 20 (1) places the dependent in a situation that endangers the
- 21 dependent's life or health;
- 22 (2) abandons or cruelly confines the dependent;
- 23 (3) deprives the dependent of necessary support; or
- 24 (4) deprives the dependent of education as required by law;
- 25 commits neglect of a dependent, a Class D felony.
- 26 (b) However, the offense is:
- 27 (1) a Class C felony if it is committed under subsection (a)(1),
- 28 (a)(2), or (a)(3) and:
- 29 (A) results in bodily injury; or
- 30 (B) is:
- 31 (i) committed in a location where a person is violating
- 32 IC 35-48-4-1 (delivery, financing, or manufacture of cocaine
- 33 ~~methamphetamine~~; or a narcotic drug) **or IC 35-48-4-1.1**
- 34 **(delivery, financing, or manufacture of**
- 35 **methamphetamine);** or
- 36 (ii) the result of a violation of IC 35-48-4-1 (delivery,
- 37 financing, or manufacture of cocaine ~~methamphetamine~~; or
- 38 a narcotic drug) **or IC 35-48-4-1.1 (delivery, financing, or**
- 39 **manufacture of methamphetamine);**
- 40 (2) a Class B felony if it is committed under subsection (a)(1),
- 41 (a)(2), or (a)(3) and results in serious bodily injury;
- 42 (3) a Class A felony if it is committed under subsection (a)(1),

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1 (a)(2), or (a)(3) by a person at least eighteen (18) years of age and
 2 results in the death of a dependent who is less than fourteen (14)
 3 years of age; and

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

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

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

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

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

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

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

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

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

27 (d) Except for property transferred or received:

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

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

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

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

39 (1) Ephedrine.

40 (2) Pseudoephedrine.

41 (3) Phenylpropanolamine.

42 (4) The salts, isomers, and salts of isomers of a substance

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- 1 identified in subdivisions (1) through (3).
 2 (5) Anhydrous ammonia or ammonia solution (as defined in
 3 IC 22-11-20-1).
 4 (6) Organic solvents.
 5 (7) Hydrochloric acid.
 6 (8) Lithium metal.
 7 (9) Sodium metal.
 8 (10) Ether.
 9 (11) Sulfuric acid.
 10 (12) Red phosphorous.
 11 (13) Iodine.
 12 (14) Sodium hydroxide (lye).
 13 (15) Potassium dichromate.
 14 (16) Sodium dichromate.
 15 (17) Potassium permanganate.
 16 (18) Chromium trioxide.
 17 (19) Benzyl cyanide.
 18 (20) Phenylacetic acid and its esters or salts.
 19 (21) Piperidine and its salts.
 20 (22) Methylamine and its salts.
 21 (23) Isosafrole.
 22 (24) Safrole.
 23 (25) Piperonal.
 24 (26) Hydriodic acid.
 25 (27) Benzaldehyde.
 26 (28) Nitroethane.
 27 (29) Gamma-butyrolactone.
 28 (30) White phosphorus.
 29 (31) Hypophosphorous acid and its salts.
 30 (32) Acetic anhydride.
 31 (33) Benzyl chloride.
 32 (34) Ammonium nitrate.
 33 (35) Ammonium sulfate.
 34 (36) Hydrogen peroxide.
 35 (37) Thionyl chloride.
 36 (38) Ethyl acetate.
 37 (39) Pseudoephedrine hydrochloride.
 38 (b) A person who possesses more than ten (10) grams of ephedrine,
 39 pseudoephedrine, or phenylpropanolamine, pure or adulterated,
 40 commits a Class D felony. However, the offense is a Class C felony if
 41 the person possessed:
 42 (1) a firearm while possessing more than ten (10) grams of

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- 1 ephedrine, pseudoephedrine, or phenylpropanolamine, pure or
 2 adulterated; or
 3 (2) more than ten (10) grams of ephedrine, pseudoephedrine, or
 4 phenylpropanolamine, pure or adulterated, in, on, or within one
 5 thousand (1,000) feet of:
 6 (A) school property;
 7 (B) a public park;
 8 (C) a family housing complex; or
 9 (D) a youth program center.
- 10 (c) A person who possesses anhydrous ammonia or ammonia
 11 solution (as defined in IC 22-11-20-1) with the intent to manufacture
 12 methamphetamine or amphetamine, schedule II controlled substances
 13 under IC 35-48-2-6, commits a Class D felony. However, the offense
 14 is a Class C felony if the person possessed:
 15 (1) a firearm while possessing anhydrous ammonia or ammonia
 16 solution (as defined in IC 22-11-20-1) with intent to manufacture
 17 methamphetamine or amphetamine, schedule II controlled
 18 substances under IC 35-48-2-6; or
 19 (2) anhydrous ammonia or ammonia solution (as defined in
 20 IC 22-11-20-1) with intent to manufacture methamphetamine or
 21 amphetamine, schedule II controlled substances under
 22 IC 35-48-2-6, in, on, or within one thousand (1,000) feet of:
 23 (A) school property;
 24 (B) a public park;
 25 (C) a family housing complex; or
 26 (D) a youth program center.
- 27 (d) Subsection (b) does not apply to a:
 28 (1) licensed health care provider, pharmacist, retail distributor,
 29 wholesaler, manufacturer, warehouseman, or common carrier or
 30 an agent of any of these persons if the possession is in the regular
 31 course of lawful business activities; or
 32 (2) person who possesses more than ten (10) grams of a substance
 33 described in subsection (b) if the substance is possessed under
 34 circumstances consistent with typical medicinal or household use,
 35 including:
 36 (A) the location in which the substance is stored;
 37 (B) the possession of the substance in a variety of:
 38 (i) strengths;
 39 (ii) brands; or
 40 (iii) types; or
 41 (C) the possession of the substance:
 42 (i) with different expiration dates; or

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- 1 (ii) in forms used for different purposes.
- 2 (e) A person who possesses two (2) or more chemical reagents or
3 precursors with the intent to manufacture a controlled substance
4 commits a Class D felony.
- 5 (f) An offense under subsection (e) is a Class C felony if the person
6 possessed:
- 7 (1) a firearm while possessing two (2) or more chemical reagents
8 or precursors with intent to manufacture a controlled substance;
9 or
10 (2) two (2) or more chemical reagents or precursors with intent to
11 manufacture a controlled substance in, on, or within one thousand
12 (1,000) feet of:
- 13 (A) school property;
14 (B) a public park;
15 (C) a family housing complex; or
16 (D) a youth program center.
- 17 (g) A person who sells, transfers, distributes, or furnishes a chemical
18 reagent or precursor to another person with knowledge or the intent that
19 the recipient will use the chemical reagent or precursors to manufacture
20 a controlled substance commits unlawful sale of a precursor, a Class D
21 felony. **However, the offense is a Class C felony if the person sells,
22 transfers, distributes, or furnishes more than ten (10) grams of
23 ephedrine, pseudoephedrine, or phenylpropanolamine.**
- 24 (h) **This subsection does not apply to a drug containing
25 ephedrine, pseudoephedrine, or phenylpropanolamine that is
26 dispensed under a prescription. A person who:**
- 27 (1) **has been convicted of a methamphetamine offense (as
28 defined in IC 10-13-8-1); and**
- 29 (2) **not later than seven (7) years from the date the person was
30 sentenced for the methamphetamine offense;**
- 31 **knowingly or intentionally possesses ephedrine, pseudoephedrine,
32 or phenylpropanolamine, pure or adulterated, commits possession
33 of a precursor by a methamphetamine offender, a Class D felony.**
- 34 SECTION 5. IC 35-48-4-14.7, AS AMENDED BY P.L.221-2011,
35 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 JULY 1, 2013]: Sec. 14.7. (a) This section does not apply to the
37 following:
- 38 (1) Ephedrine or pseudoephedrine dispensed pursuant to a
39 prescription.
- 40 (2) The sale of a drug containing ephedrine or pseudoephedrine
41 to a licensed health care provider, pharmacist, retail distributor,
42 wholesaler, manufacturer, or an agent of any of these persons if

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1 the sale occurs in the regular course of lawful business activities.
 2 However, a retail distributor, wholesaler, or manufacturer is
 3 required to report a suspicious order to the state police department
 4 in accordance with subsection (f).

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

11 (b) The following definitions apply throughout this section:

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

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

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

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

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

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

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

26 (4) "Pharmacy" means:

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

28 (B) a retailer containing a pharmacy, as defined in
 29 IC 25-26-13-2.

30 ~~(4)~~ (5) "Pseudoephedrine" means pure or adulterated
 31 pseudoephedrine.

32 ~~(5)~~ (6) "Retailer" means a grocery store, general merchandise
 33 store, ~~drug store~~, or other similar establishment where ephedrine
 34 or pseudoephedrine products are available for sale. **The term**
 35 **does not include a pharmacy.**

36 ~~(6)~~ (7) "Suspicious order" means a sale or transfer of a drug
 37 containing ephedrine or pseudoephedrine if the sale or transfer:

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

41 (B) appears suspicious to the retail distributor, wholesaler, or
 42 manufacturer in light of the recommendations contained in

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1 Appendix A of the report to the United States attorney general
 2 by the suspicious orders task force under the federal
 3 Comprehensive Methamphetamine Control Act of 1996; or
 4 (C) is for cash or a money order in a total amount of at least
 5 two hundred dollars (\$200).

6 ~~(7)~~ **(8)** "Unusual theft" means the theft or unexplained
 7 disappearance from a particular ~~retail store~~ **pharmacy** of drugs
 8 containing ten (10) grams or more of ephedrine, pseudoephedrine,
 9 or both in a twenty-four (24) hour period.

10 **(c) A drug containing ephedrine or pseudoephedrine may be**
 11 **sold only by a pharmacy. A retailer may not sell a drug containing**
 12 **ephedrine or pseudoephedrine. A drug containing ephedrine or**
 13 **pseudoephedrine may not be sold in a convenience package.**

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

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

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

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

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

28 **(C) seventy-two (72) grams of ephedrine or**
 29 **pseudoephedrine, or both, to one (1) individual in a three**
 30 **hundred sixty-five (365) day period.**

31 (3) The ~~retailer pharmacy~~ **pharmacy** requires:

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

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

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

38 Records from the completion of a log must be retained for at least
 39 two (2) years. A law enforcement officer has the right to inspect
 40 and copy a log or the records from the completion of a log in
 41 accordance with state and federal law. A ~~retailer pharmacy~~
 42 **pharmacy** may not sell or release a log or the records from the completion of a

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1 log for a commercial purpose. The Indiana criminal justice
 2 institute may obtain information concerning a log or the records
 3 from the completion of a log from a law enforcement officer if the
 4 information may not be used to identify a specific individual and
 5 is used only for statistical purposes. A **retailer pharmacy** who in
 6 good faith releases information maintained under this subsection
 7 is immune from civil liability unless the release constitutes gross
 8 negligence or intentional, wanton, or willful misconduct.

9 (4) The **retailer pharmacy** maintains a record of information for
 10 each sale of a nonprescription product containing
 11 pseudoephedrine or ephedrine. Required information includes:
 12 (A) the name and address of each purchaser;
 13 (B) the type of identification presented;
 14 (C) the governmental entity that issued the identification;
 15 (D) the identification number; and
 16 (E) the ephedrine or pseudoephedrine product purchased,
 17 including the number of grams the product contains and the
 18 date and time of the transaction.

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

29 (6) If a **retailer pharmacy** selling an over-the-counter product
 30 containing ephedrine or pseudoephedrine experiences mechanical
 31 or electronic failure of the electronic sales tracking system and is
 32 unable to comply with the electronic sales tracking requirement,
 33 the **retailer pharmacy** shall maintain a written log or an
 34 alternative electronic recordkeeping mechanism until the **retailer**
 35 **pharmacy** is able to comply with the electronic sales tracking
 36 requirement.

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

41 (8) The **retailer pharmacy** posts a sign warning that:
 42 (A) **it is a criminal offense for a person to purchase drugs**

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containing more than seventy-two (72) grams of ephedrine or pseudoephedrine, or both, in a three hundred sixty-five (365) day period;

~~(A)~~ **(B)** 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)~~ **(C)** 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)~~ **(D)** 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)** **seventy-two (72) 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)~~ This subsection only applies to convenience packages. 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.

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

(g) Not later than three (3) days after the discovery of an unusual theft at a particular retail store, the ~~retailer~~ **pharmacy** 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,** the ~~retailer~~ **pharmacy** shall, for at least one hundred

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1 eighty (180) days after the date of the last unusual theft, locate all drugs
2 containing ephedrine or pseudoephedrine at that particular **retail store**
3 **pharmacy** behind a counter in an area inaccessible to a customer or in
4 a locked display case that makes the drug unavailable to customers
5 without the assistance of an employee.

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

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

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

20 (k) The following requirements apply to the NPLeX:

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

23 (2) A law enforcement official may access Indiana transaction
24 information maintained in the NPLeX for investigative purposes.

25 (3) NADDI may not modify sales transaction data that is shared
26 with law enforcement officials.

27 (4) At least one (1) time per week, NADDI shall forward Indiana
28 data contained in the NPLeX, including data concerning a
29 transaction that could not be completed due to the issuance of a
30 stop sale alert, to the state police department.

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