



February 8, 2013
Technical Correction

SENATE BILL No. 496

DIGEST OF SB 496 (Updated February 5, 2013 3:16 pm - DI 106)

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

Synopsis: Control of ephedrine and pseudoephedrine. Specifies that ephedrine or pseudoephedrine: (1) may be sold only by a pharmacy or a retailer that uses the NPLEx tracking system Provides that: (1) a pharmacy may not 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 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. Makes it a Class B felony if a person damages certain property by fire or explosion while possessing more than ten grams of ephedrine, pseudoephedrine, or phenylpropanolamine, and increases the penalty to a Class A felony if the person causes a fire or explosion that results in serious bodily injury to another person.

Effective: July 1, 2013.

Yoder, Young R Michael, Randolph

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.

SB 496—LS 7106/DI 106+



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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.

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 35-31.5-2-256, AS ADDED BY P.L.114-2012,
2 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2013]: Sec. 256. "Pseudoephedrine", for purposes of
4 IC 35-48-4-14.7, has the meaning set forth in ~~IC 35-48-4-14.7(b)(4)~~
5 **IC 35-48-4-14.7.**
- 6 SECTION 2. IC 35-31.5-2-279, AS ADDED BY P.L.114-2012,
7 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2013]: Sec. 279. "Retailer", for purposes of IC 35-48-4-14.7,
9 has the meaning set forth in ~~IC 35-48-4-14.7(b)(5)~~ **IC 35-48-4-14.7.**
- 10 SECTION 3. IC 35-31.5-2-320, AS ADDED BY P.L.114-2012,
11 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2013]: Sec. 320. "Suspicious order", for purposes of
13 IC 35-48-4-14.7, has the meaning set forth in ~~IC 35-48-4-14.7(b)(6)~~
14 **IC 35-48-4-14.7.**
- 15 SECTION 4. IC 35-31.5-2-343, AS ADDED BY P.L.114-2012,
16 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2013]: Sec. 343. "Unusual theft", for purposes of

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1 IC 35-48-4-14.7, has the meaning set forth in ~~IC 35-48-4-14.7(b)(7)~~
 2 **IC 35-48-4-14.7.**

3 SECTION 5. IC 35-46-1-4, AS AMENDED BY P.L.6-2012,
 4 SECTION 227, IS AMENDED TO READ AS FOLLOWS
 5 [EFFECTIVE JULY 1, 2013]: Sec. 4. (a) A person having the care of
 6 a dependent, whether assumed voluntarily or because of a legal
 7 obligation, who knowingly or intentionally:

- 8 (1) places the dependent in a situation that endangers the
 9 dependent's life or health;
 10 (2) abandons or cruelly confines the dependent;
 11 (3) deprives the dependent of necessary support; or
 12 (4) deprives the dependent of education as required by law;

13 commits neglect of a dependent, a Class D felony.

14 (b) However, the offense is:

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

17 (A) results in bodily injury; or

18 (B) is:

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

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

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

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

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

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

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

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

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

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- 1 section that:
- 2 (1) the accused person left a dependent child who was, at the time
- 3 the alleged act occurred, not more than thirty (30) days of age
- 4 with an emergency medical provider who took custody of the
- 5 child under IC 31-34-2.5 when:
- 6 (A) the prosecution is based solely on the alleged act of
- 7 leaving the child with the emergency medical services
- 8 provider; and
- 9 (B) the alleged act did not result in bodily injury or serious
- 10 bodily injury to the child; or
- 11 (2) the accused person, in the legitimate practice of the accused
- 12 person's religious belief, provided treatment by spiritual means
- 13 through prayer, in lieu of medical care, to the accused person's
- 14 dependent.
- 15 (d) Except for property transferred or received:
- 16 (1) under a court order made in connection with a proceeding
- 17 under IC 31-15, IC 31-16, IC 31-17, or IC 31-35 (or IC 31-1-11.5
- 18 or IC 31-6-5 before their repeal); or
- 19 (2) under section 9(b) of this chapter;
- 20 a person who transfers or receives any property in consideration for the
- 21 termination of the care, custody, or control of a person's dependent
- 22 child commits child selling, a Class D felony.
- 23 SECTION 6. IC 35-48-4-14.5, AS AMENDED BY P.L.151-2006,
- 24 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 25 JULY 1, 2013]: Sec. 14.5. (a) As used in this section, "chemical
- 26 reagents or precursors" refers to one (1) or more of the following:
- 27 (1) Ephedrine.
- 28 (2) Pseudoephedrine.
- 29 (3) Phenylpropanolamine.
- 30 (4) The salts, isomers, and salts of isomers of a substance
- 31 identified in subdivisions (1) through (3).
- 32 (5) Anhydrous ammonia or ammonia solution (as defined in
- 33 IC 22-11-20-1).
- 34 (6) Organic solvents.
- 35 (7) Hydrochloric acid.
- 36 (8) Lithium metal.
- 37 (9) Sodium metal.
- 38 (10) Ether.
- 39 (11) Sulfuric acid.
- 40 (12) Red phosphorous.
- 41 (13) Iodine.
- 42 (14) Sodium hydroxide (lye).

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- 1 (15) Potassium dichromate.
 2 (16) Sodium dichromate.
 3 (17) Potassium permanganate.
 4 (18) Chromium trioxide.
 5 (19) Benzyl cyanide.
 6 (20) Phenylacetic acid and its esters or salts.
 7 (21) Piperidine and its salts.
 8 (22) Methylamine and its salts.
 9 (23) Isosafrole.
 10 (24) Safrole.
 11 (25) Piperonal.
 12 (26) Hydriodic acid.
 13 (27) Benzaldehyde.
 14 (28) Nitroethane.
 15 (29) Gamma-butyrolactone.
 16 (30) White phosphorus.
 17 (31) Hypophosphorous acid and its salts.
 18 (32) Acetic anhydride.
 19 (33) Benzyl chloride.
 20 (34) Ammonium nitrate.
 21 (35) Ammonium sulfate.
 22 (36) Hydrogen peroxide.
 23 (37) Thionyl chloride.
 24 (38) Ethyl acetate.
 25 (39) Pseudoephedrine hydrochloride.
 26 (b) A person who possesses more than ten (10) grams of ephedrine,
 27 pseudoephedrine, or phenylpropanolamine, pure or adulterated,
 28 commits a Class D felony. However, the offense is:
 29 (1) a Class C felony if the person possessed:
 30 (†) (A) a firearm while possessing more than ten (10) grams of
 31 ephedrine, pseudoephedrine, or phenylpropanolamine, pure or
 32 adulterated; or
 33 (‡) (B) more than ten (10) grams of ephedrine,
 34 pseudoephedrine, or phenylpropanolamine, pure or
 35 adulterated, in, on, or within one thousand (1,000) feet of:
 36 (⊖) (i) school property;
 37 (⊖) (ii) a public park;
 38 (⊖) (iii) a family housing complex; or
 39 (⊕) (iv) a youth program center; **and**
 40 (2) a Class B felony if the person, while possessing more than
 41 ten (10) grams of ephedrine, pseudoephedrine, or
 42 phenylpropanolamine, pure or adulterated, damages:

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- 1 (A) a dwelling of another person without the other person's
 2 consent;
 3 (B) property of any person under circumstances that
 4 endanger human life;
 5 (C) property of another person without the other person's
 6 consent if the pecuniary loss is at least five thousand
 7 dollars (\$5,000); or
 8 (D) a structure used for religious worship without the
 9 consent of the owner of the structure;
 10 by means of fire or explosion; or
 11 (3) a Class A felony if the person, while possessing more than
 12 ten (10) grams of ephedrine, pseudoephedrine, or
 13 phenylpropanolamine, pure or adulterated, causes a fire or
 14 explosion that results in serious bodily injury to another
 15 person.
 16 (c) A person who possesses anhydrous ammonia or ammonia
 17 solution (as defined in IC 22-11-20-1) with the intent to manufacture
 18 methamphetamine or amphetamine, schedule II controlled substances
 19 under IC 35-48-2-6, commits a Class D felony. However, the offense
 20 is a Class C felony if the person possessed:
 21 (1) a firearm while possessing anhydrous ammonia or ammonia
 22 solution (as defined in IC 22-11-20-1) with intent to manufacture
 23 methamphetamine or amphetamine, schedule II controlled
 24 substances under IC 35-48-2-6; or
 25 (2) anhydrous ammonia or ammonia solution (as defined in
 26 IC 22-11-20-1) with intent to manufacture methamphetamine or
 27 amphetamine, schedule II controlled substances under
 28 IC 35-48-2-6, in, on, or within one thousand (1,000) feet of:
 29 (A) school property;
 30 (B) a public park;
 31 (C) a family housing complex; or
 32 (D) a youth program center.
 33 (d) Subsection (b) does not apply to a:
 34 (1) licensed health care provider, pharmacist, retail distributor,
 35 wholesaler, manufacturer, warehouseman, or common carrier or
 36 an agent of any of these persons if the possession is in the regular
 37 course of lawful business activities; or
 38 (2) person who possesses more than ten (10) grams of a substance
 39 described in subsection (b) if the substance is possessed under
 40 circumstances consistent with typical medicinal or household use,
 41 including:
 42 (A) the location in which the substance is stored;

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- 1 (B) the possession of the substance in a variety of:
 2 (i) strengths;
 3 (ii) brands; or
 4 (iii) types; or
 5 (C) the possession of the substance:
 6 (i) with different expiration dates; or
 7 (ii) in forms used for different purposes.
 8 (e) A person who possesses two (2) or more chemical reagents or
 9 precursors with the intent to manufacture a controlled substance
 10 commits a Class D felony.
 11 (f) An offense under subsection (e) is a Class C felony if the person
 12 possessed:
 13 (1) a firearm while possessing two (2) or more chemical reagents
 14 or precursors with intent to manufacture a controlled substance;
 15 or
 16 (2) two (2) or more chemical reagents or precursors with intent to
 17 manufacture a controlled substance in, on, or within one thousand
 18 (1,000) feet of:
 19 (A) school property;
 20 (B) a public park;
 21 (C) a family housing complex; or
 22 (D) a youth program center.
 23 (g) A person who sells, transfers, distributes, or furnishes a chemical
 24 reagent or precursor to another person with knowledge or the intent that
 25 the recipient will use the chemical reagent or precursors to manufacture
 26 a controlled substance commits unlawful sale of a precursor, a Class D
 27 felony. **However, the offense is a Class C felony if the person sells,**
 28 **transfers, distributes, or furnishes more than ten (10) grams of**
 29 **ephedrine, pseudoephedrine, or phenylpropanolamine.**
 30 (h) **This subsection does not apply to a drug containing**
 31 **ephedrine, pseudoephedrine, or phenylpropanolamine that is**
 32 **dispensed under a prescription. A person who:**
 33 (1) has been convicted of:
 34 (A) **dealing in methamphetamine (IC 35-48-4-1.1);**
 35 (B) **possession of more than ten (10) grams of ephedrine,**
 36 **pseudoephedrine, or phenylpropanolamine**
 37 **(IC 35-48-4-14.5(b));**
 38 (C) **possession of anhydrous ammonia or ammonia solution**
 39 **(as defined in IC 22-11-20-1) with intent to manufacture**
 40 **methamphetamine or amphetamine (IC 35-48-4-14.5(c));**
 41 (D) **possession of two (2) or more chemical reagents or**
 42 **precursors with the intent to manufacture a controlled**

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1 substance (IC 35-48-4-14.5(e)); or
2 (E) unlawful sale of a precursor (IC 35-48-4-14.5(g)); and
3 (2) not later than seven (7) years from the date the person was
4 sentenced for the offense;

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

8 SECTION 7. IC 35-48-4-14.7, AS AMENDED BY P.L.221-2011,
9 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2013]: Sec. 14.7. (a) This section does not apply to the
11 following:

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

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

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

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

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

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

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

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

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

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

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

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1 **(4) "Pharmacy or NPLeX retailer" means:**

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

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

5 **(C) a retailer that electronically submits the required**
 6 **information to the National Precursor Log Exchange**
 7 **(NPLeX) administered by the National Association of Drug**
 8 **Diversion Investigators (NADDI).**

9 ~~(4)~~ **(5) "Pseudoephedrine" means pure or adulterated**
 10 **pseudoephedrine.**

11 ~~(5)~~ **(6) "Retailer" means a grocery store, general merchandise**
 12 **store, drug store, or other similar establishment. where ephedrine**
 13 **or pseudoephedrine products are available for sale. The term**
 14 **does not include a pharmacy or NPLeX retailer.**

15 ~~(6)~~ **(7) "Suspicious order" means a sale or transfer of a drug**
 16 **containing ephedrine or pseudoephedrine if the sale or transfer:**

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

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

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

27 ~~(7)~~ **(8) "Unusual theft" means the theft or unexplained**
 28 **disappearance from a particular retail store pharmacy or NPLeX**
 29 **retailer of drugs containing ten (10) grams or more of ephedrine,**
 30 **pseudoephedrine, or both in a twenty-four (24) hour period.**

31 **(c) A drug containing ephedrine or pseudoephedrine may be**
 32 **sold only by a pharmacy or NPLeX retailer. A retailer may not sell**
 33 **a drug containing ephedrine or pseudoephedrine.**

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

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

41 **(2) The retailer pharmacy or NPLeX retailer does not sell drugs**
 42 **containing more than:**

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- 1 (A) three and six-tenths (3.6) grams of ephedrine or
 2 pseudoephedrine, or both, to one (1) individual on one (1) day;
 3 or
 4 (B) seven and two-tenths (7.2) grams of ephedrine or
 5 pseudoephedrine, or both, to one (1) individual in a thirty (30)
 6 day period; or
 7 (C) **sixty-one and two-tenths (61.2) grams of ephedrine or**
 8 **pseudoephedrine, or both, to one (1) individual in a three**
 9 **hundred sixty-five (365) day period.**
- 10 (3) The **retailer pharmacy or NPLeX retailer** requires:
 11 (A) the purchaser to produce a valid government issued photo
 12 identification card showing the date of birth of the person;
 13 (B) the purchaser to sign a written or electronic log attesting
 14 to the validity of the information; and
 15 (C) the clerk who is conducting the transaction to initial or
 16 electronically record the clerk's identification on the log.
- 17 Records from the completion of a log must be retained for at least
 18 two (2) years. A law enforcement officer has the right to inspect
 19 and copy a log or the records from the completion of a log in
 20 accordance with state and federal law. A **retailer pharmacy or**
 21 **NPLeX retailer** may not sell or release a log or the records from
 22 the completion of a log for a commercial purpose. The Indiana
 23 criminal justice institute may obtain information concerning a log
 24 or the records from the completion of a log from a law
 25 enforcement officer if the information may not be used to identify
 26 a specific individual and is used only for statistical purposes. A
 27 ~~retailer who~~ **retailer pharmacy or NPLeX retailer that** in good faith
 28 releases information maintained under this subsection is immune
 29 from civil liability unless the release constitutes gross negligence
 30 or intentional, wanton, or willful misconduct.
- 31 (4) The **retailer pharmacy or NPLeX retailer** maintains a record
 32 of information for each sale of a nonprescription product
 33 containing pseudoephedrine or ephedrine. Required information
 34 includes:
 35 (A) the name and address of each purchaser;
 36 (B) the type of identification presented;
 37 (C) the governmental entity that issued the identification;
 38 (D) the identification number; and
 39 (E) the ephedrine or pseudoephedrine product purchased,
 40 including the number of grams the product contains and the
 41 date and time of the transaction.
- 42 (5) Beginning January 1, 2012, a **retailer pharmacy or NPLeX**

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

11 (6) If a **retailer pharmacy or NPLEx retailer** selling a
12 over-the-counter product containing ephedrine or
13 pseudoephedrine experiences mechanical or electronic failure of
14 the electronic sales tracking system and is unable to comply with
15 the electronic sales tracking requirement, the **retailer pharmacy**
16 **or NPLEx retailer** shall maintain a written log or an alternative
17 electronic recordkeeping mechanism until the **retailer pharmacy**
18 **or NPLEx retailer** is able to comply with the electronic sales
19 tracking requirement.

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

24 (8) The retailer posts a sign warning that:
25 (A) it is a criminal offense for a person to purchase drugs
26 containing more than seven and two-tenths (7.2) grams of
27 ephedrine or pseudoephedrine, or both, in a thirty (30) day
28 period;
29 (B) it is a criminal offense for a person to purchase drugs
30 containing more than three and six-tenths (3.6) grams of
31 ephedrine or pseudoephedrine, or both, on one (1) day; and
32 (C) depending on the amount of ephedrine or pseudoephedrine
33 contained in the drug, purchasing more than one (1) package
34 of drugs containing ephedrine or pseudoephedrine on one (1)
35 day may be a crime.

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

39 (d) (e) A person may not purchase drugs containing more than:
40 (1) three and six-tenths (3.6) grams of ephedrine or
41 pseudoephedrine, or both, on one (1) day; or more than
42 (2) seven and two-tenths (7.2) grams of ephedrine or

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1 pseudoephedrine, or both, in a thirty (30) day period; or
 2 **(3) sixty-one and two-tenths (61.2) grams of ephedrine or**
 3 **pseudoephedrine, or both, in a three hundred sixty-five (365)**
 4 **day period.**

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

8 ~~(e)~~ **(f)** This subsection only applies to convenience packages. A
 9 ~~retailer may not sell drugs containing more than sixty (60) milligrams~~
 10 ~~of ephedrine or pseudoephedrine, or both in any one (1) transaction if~~
 11 ~~the drugs are sold in convenience packages. A pharmacy or NPLeX~~
 12 ~~retailer who that~~ sells convenience packages must secure the
 13 convenience packages behind the counter in an area inaccessible to a
 14 customer or in a locked display case that makes the drug unavailable
 15 to a customer without the assistance of an employee.

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

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

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

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

36 ~~(j)~~ **(k)** A ~~retailer who~~ **pharmacy or NPLeX retailer that** uses the
 37 electronic sales tracking system in accordance with this section is
 38 immune from civil liability for any act or omission committed in
 39 carrying out the duties required by this section, unless the act or
 40 omission was due to negligence, recklessness, or deliberate or wanton
 41 misconduct. A ~~retailer~~ **pharmacy or NPLeX retailer** is immune from
 42 liability to a third party unless the ~~retailer~~ **pharmacy or NPLeX**

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1 **retailer** has violated a provision of this section and the third party
2 brings an action based on the ~~retailer's~~ **pharmacy's or NPLEx**
3 **retailer's** violation of this section.
4 ~~(*)~~ **(1)** The following requirements apply to the NPLEx:
5 (1) Information contained in the NPLEx may be shared only with
6 law enforcement officials.
7 (2) A law enforcement official may access Indiana transaction
8 information maintained in the NPLEx for investigative purposes.
9 (3) NADDI may not modify sales transaction data that is shared
10 with law enforcement officials.
11 (4) At least one (1) time per week, NADDI shall forward Indiana
12 data contained in the NPLEx, including data concerning a
13 transaction that could not be completed due to the issuance of a
14 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 NPLEEx retailers**".
- Page 11, line 27, after "pharmacy" insert "**or NPLEEx retailer**".
- Page 11, line 29, after "pharmacy" insert "**or NPLEEx retailer**".
- Page 11, line 33, after "pharmacy" insert "**or NPLEEx retailer**".
- Page 11, line 35, after "pharmacy" insert "**or NPLEEx retailer**".
- Page 11, line 37, after "pharmacy" insert "**or NPLEEx 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 NPLEEx**".
- 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 NPLEEx retailer**".
- Page 12, line 42, after "store, pharmacy" insert "**or NPLEEx retailer**".
- Page 12, line 42, after "retailer pharmacy" insert "**or NPLEEx retailer**".
- Page 13, line 3, after "pharmacy" insert "**or NPLEEx retailer**".
- Page 13, line 12, delete "pharmacy".
- Page 13, line 12, strike "who".
- Page 13, line 12, after "who" insert "**pharmacy or NPLEEx 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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