

## LEGISLATIVE BILL 218

Approved by the Governor May 16, 2007

Introduced by Burling, 33; Hansen, 42; Schimek, 27; Wightman, 36

FOR AN ACT relating to drugs and narcotics; to amend section 28-456, Revised Statutes Cumulative Supplement, 2006; to change provisions relating to the acquisition of certain drug products; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 28-456, Revised Statutes Cumulative Supplement, 2006, is amended to read:

28-456 (1) Any drug products containing phenylpropanolamine, pseudoephedrine, or their salts, optical isomers, or salts of such optical isomers may be sold without a prescription only if they are:

(a) Labeled and marketed in a manner consistent with the pertinent OTC Tentative Final or Final Monograph;

(b) Manufactured and distributed for legitimate medicinal use in a manner that reduces or eliminates the likelihood of abuse;

(c) Packaged as follows:

(i) Except for liquids, sold in package sizes of not more than ~~one thousand four hundred forty milligrams~~ three and six-tenths grams of pseudoephedrine base or ~~one thousand four hundred forty milligrams~~ three and six-tenths grams of phenylpropanolamine base, in blister packs, each blister containing not more than two dosage units, or if the use of blister packs is technically infeasible, in unit dose packets or pouches; and

(ii) For liquids, sold in package sizes of not more than ~~one thousand four hundred forty milligrams~~ three and six-tenths grams of pseudoephedrine base or ~~one thousand four hundred forty milligrams~~ three and six-tenths grams of phenylpropanolamine base;

(d) Sold by a person, eighteen years of age or older, in the course of his or her employment to a customer, eighteen years of age or older, with the following restrictions:

(i) No customer shall be allowed to purchase, receive, or otherwise acquire more than ~~one thousand four hundred forty milligrams~~ three and six-tenths grams of pseudoephedrine base or ~~one thousand four hundred forty milligrams~~ three and six-tenths grams of phenylpropanolamine base during a twenty-four-hour period; and

(ii) No customer shall purchase, receive, or otherwise acquire more than nine grams of pseudoephedrine base or nine grams of phenylpropanolamine base during a thirty-day period; and

~~(ii)~~ (iii) The customer shall display a valid driver's or operator's license, a Nebraska state identification card, a military identification card, an alien registration card, or a passport as proof of identification; and

(e) Stored behind a counter, in an area not accessible to customers, or in a locked case so that a customer needs assistance from an employee to access the drug product, except that this requirement does not apply to liquid pediatric formulations. For the purposes of this subdivision, liquid pediatric formulation means a liquid formulation with pseudoephedrine doses of fifteen milligrams or less that is manufactured and marketed for children twelve years of age or younger. If it is documented by a law enforcement agency to the Nebraska State Patrol that a liquid pediatric formulation has been found at a methamphetamine manufacturing site, the patrol shall present the documentation to the chief medical officer, as described in section 81-3201, who shall issue an order removing the exemption.

(2) Any person who sells drug products in violation of this section may be subject to a civil penalty of fifty dollars per day, and for a second or any subsequent violation, the penalty may be one hundred dollars per day. Any such drug products shall be seized and destroyed upon the finding of a violation of this section. The department, in conjunction with the Attorney General, the Nebraska State Patrol, and local law enforcement agencies, shall have authority to make inspections and investigations to enforce this section. In addition, the department may seek injunctive relief for suspected violations of this section.

Sec. 2. Original section 28-456, Revised Statutes Cumulative Supplement, 2006, is repealed.