

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 218

Introduced By: Burling, 33; Hansen, 42; Schimek, 27; Wightman, 36

Read first time: January 9, 2007

Committee: Judiciary

A BILL

1 FOR AN ACT relating to drugs and narcotics; to amend section
2 28-456, Revised Statutes Cumulative Supplement, 2006; to
3 change provisions relating to the acquisition of certain
4 drug products; and to repeal the original section.

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

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

3 28-456. (1) Any drug products containing
4 phenylpropanolamine, pseudoephedrine, or their salts, optical isomers,
5 or salts of such optical isomers may be sold without a prescription
6 only if they are:

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

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

11 (c) Packaged as follows:

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

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

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

26 (i) No customer shall be allowed to purchase, receive, or
27 otherwise acquire more than ~~one thousand four hundred forty~~

1 ~~milligrams~~ three and six-tenths grams of pseudoephedrine base or
2 ~~one thousand four hundred forty milligrams~~ three and six-tenths
3 grams of phenylpropanolamine base during a twenty-four-hour period;
4 and

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

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

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

24 (2) Any person who sells drug products in violation of this
25 section may be subject to a civil penalty of fifty dollars per day,
26 and for a second or any subsequent violation, the penalty may be one
27 hundred dollars per day. Any such drug products shall be seized and

1 destroyed upon the finding of a violation of this section. The
2 department, in conjunction with the Attorney General, the Nebraska
3 State Patrol, and local law enforcement agencies, shall have authority
4 to make inspections and investigations to enforce this section. In
5 addition, the department may seek injunctive relief for suspected
6 violations of this section.

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