

E & R AMENDMENTS TO LB 117

1           1.     Strike the original sections and all amendments  
2 thereto and insert the following new sections:

3           "Section 1.   Section 28-401, Revised Statutes Supplement,  
4 2004, is amended to read:

5           28-401.   As used in the Uniform Controlled Substances  
6 Act, unless the context otherwise requires:

7           (1)   Administer shall mean to directly apply a controlled  
8 substance by injection, inhalation, ingestion, or any other means  
9 to the body of a patient or research subject;

10          (2)   Agent shall mean an authorized person who acts on  
11 behalf of or at the direction of another person but shall not  
12 include a common or contract carrier, public warehouse keeper, or  
13 employee of a carrier or warehouse keeper;

14          (3)   Administration shall mean the Drug Enforcement  
15 Administration, United States Department of Justice;

16          (4)   Controlled substance shall mean a drug, biological,  
17 substance, or immediate precursor in Schedules I to V of section  
18 28-405.   Controlled substance shall not include distilled spirits,  
19 wine, malt beverages, tobacco, or any nonnarcotic substance if such  
20 substance may, under the Federal Food, Drug, and Cosmetic Act, 21  
21 U.S.C. 301 et seq., as such act existed on January 1, 2003, and the  
22 law of this state, be lawfully sold over the counter without a  
23 prescription;

24          (5)   Counterfeit substance shall mean a controlled

1 substance which, or the container or labeling of which, without  
2 authorization, bears the trademark, trade name, or other  
3 identifying mark, imprint, number, or device, or any likeness  
4 thereof, of a manufacturer, distributor, or dispenser other than  
5 the person or persons who in fact manufactured, distributed, or  
6 dispensed such substance and which thereby falsely purports or is  
7 represented to be the product of, or to have been distributed by,  
8 such other manufacturer, distributor, or dispenser;

9 (6) Department shall mean the Department of Health and  
10 Human Services Regulation and Licensure;

11 (7) Division of Drug Control shall mean the personnel of  
12 the Nebraska State Patrol who are assigned to enforce the Uniform  
13 Controlled Substances Act;

14 (8) Dispense shall mean to deliver a controlled substance  
15 to an ultimate user or a research subject pursuant to a medical  
16 order issued by a practitioner authorized to prescribe, including  
17 the packaging, labeling, or compounding necessary to prepare the  
18 controlled substance for such delivery;

19 (9) Distribute shall mean to deliver other than by  
20 administering or dispensing a controlled substance;

21 (10) Prescribe shall mean to issue a medical order;

22 (11) Drug shall mean (a) articles recognized in the  
23 official United States Pharmacopoeia, official Homeopathic  
24 Pharmacopoeia of the United States, official National Formulary, or  
25 any supplement to any of them, (b) substances intended for use in  
26 the diagnosis, cure, mitigation, treatment, or prevention of  
27 disease in human beings or animals, and (c) substances intended for

1 use as a component of any article specified in subdivision (a) or  
2 (b) of this subdivision, but shall not include devices or their  
3 components, parts, or accessories;

4 (12) Deliver or delivery shall mean the actual,  
5 constructive, or attempted transfer from one person to another of a  
6 controlled substance, whether or not there is an agency  
7 relationship;

8 (13) Marijuana shall mean all parts of the plant of the  
9 genus cannabis, whether growing or not, the seeds thereof, and  
10 every compound, manufacture, salt, derivative, mixture, or  
11 preparation of such plant or its seeds, but shall not include the  
12 mature stalks of such plant, hashish, tetrahydrocannabinols  
13 extracted or isolated from the plant, fiber produced from such  
14 stalks, oil or cake made from the seeds of such plant, any other  
15 compound, manufacture, salt, derivative, mixture, or preparation of  
16 such mature stalks, or the sterilized seed of such plant which is  
17 incapable of germination. When the weight of marijuana is referred  
18 to in the Uniform Controlled Substances Act, it shall mean its  
19 weight at or about the time it is seized or otherwise comes into  
20 the possession of law enforcement authorities, whether cured or  
21 uncured at that time;

22 (14) Manufacture shall mean the production, preparation,  
23 propagation, compounding, conversion, or processing of a controlled  
24 substance, either directly or indirectly, by extraction from  
25 substances of natural origin, independently by means of chemical  
26 synthesis, or by a combination of extraction and chemical  
27 synthesis, and shall include any packaging or repackaging of the

1 substance or labeling or relabeling of its container. Manufacture  
2 shall not include the preparation or compounding of a controlled  
3 substance by an individual for his or her own use, except for the  
4 preparation or compounding of components or ingredients used for or  
5 intended to be used for the manufacture of methamphetamine, or the  
6 preparation, compounding, conversion, packaging, or labeling of a  
7 controlled substance: (a) By a practitioner as an incident to his  
8 or her prescribing, administering, or dispensing of a controlled  
9 substance in the course of his or her professional practice; or (b)  
10 by a practitioner, or by his or her authorized agent under his or  
11 her supervision, for the purpose of, or as an incident to,  
12 research, teaching, or chemical analysis and not for sale;

13 (15) Narcotic drug shall mean any of the following,  
14 whether produced directly or indirectly by extraction from  
15 substances of vegetable origin, independently by means of chemical  
16 synthesis, or by a combination of extraction and chemical  
17 synthesis: (a) Opium, opium poppy and poppy straw, coca leaves,  
18 and opiates; (b) a compound, manufacture, salt, derivative, or  
19 preparation of opium, coca leaves, or opiates; or (c) a substance  
20 and any compound, manufacture, salt, derivative, or preparation  
21 thereof which is chemically equivalent to or identical with any of  
22 the substances referred to in subdivisions (a) and (b) of this  
23 subdivision, except that the words narcotic drug as used in the  
24 Uniform Controlled Substances Act shall not include decocainized  
25 coca leaves or extracts of coca leaves, which extracts do not  
26 contain cocaine or ecgonine, or isoquinoline alkaloids of opium;

27 (16) Opiate shall mean any substance having an

1 addiction-forming or addiction-sustaining liability similar to  
2 morphine or being capable of conversion into a drug having such  
3 addiction-forming or addiction-sustaining liability. Opiate shall  
4 not include the dextrorotatory isomer of 3-methoxy-n  
5 methylmorphinan and its salts. Opiate shall include its racemic  
6 and levorotatory forms;

7 (17) Opium poppy shall mean the plant of the species  
8 *Papaver somniferum* L., except the seeds thereof;

9 (18) Poppy straw shall mean all parts, except the seeds,  
10 of the opium poppy after mowing;

11 (19) Person shall mean any corporation, association,  
12 partnership, limited liability company, or one or more individuals;

13 (20) Practitioner shall mean a physician, physician  
14 assistant, dentist, veterinarian, pharmacist, podiatrist,  
15 optometrist, certified nurse midwife, advanced practice registered  
16 nurse, certified registered nurse anesthetist, scientific  
17 investigator, pharmacy, hospital, or any other person licensed,  
18 registered, or otherwise permitted to distribute, dispense,  
19 prescribe, conduct research with respect to, or administer a  
20 controlled substance in the course of practice or research in this  
21 state, including an emergency medical service as defined in section  
22 71-5175;

23 (21) Production shall include the manufacture, planting,  
24 cultivation, or harvesting of a controlled substance;

25 (22) Immediate precursor shall mean a substance which is  
26 the principal compound commonly used or produced primarily for use  
27 and which is an immediate chemical intermediary used or likely to

1 be used in the manufacture of a controlled substance, the control  
2 of which is necessary to prevent, curtail, or limit such  
3 manufacture;

4 (23) State shall mean the State of Nebraska;

5 (24) Ultimate user shall mean a person who lawfully  
6 possesses a controlled substance for his or her own use, for the  
7 use of a member of his or her household, or for administration to  
8 an animal owned by him or her or by a member of his or her  
9 household;

10 (25) Hospital shall have the same meaning as in section  
11 71-419;

12 (26) Cooperating individual shall mean any person, other  
13 than a commissioned law enforcement officer, who acts on behalf of,  
14 at the request of, or as agent for a law enforcement agency for the  
15 purpose of gathering or obtaining evidence of offenses punishable  
16 under the Uniform Controlled Substances Act;

17 (27) Hashish or concentrated cannabis shall mean: (a)  
18 The separated resin, whether crude or purified, obtained from a  
19 plant of the genus cannabis; or (b) any material, preparation,  
20 mixture, compound, or other substance which contains ten percent or  
21 more by weight of tetrahydrocannabinols;

22 (28) Exceptionally hazardous drug shall mean (a) a  
23 narcotic drug, (b) thiophene analog of phencyclidine, (c)  
24 phencyclidine, (d) amobarbital, (e) secobarbital, ~~or~~ (f)  
25 pentobarbital, (g) amphetamine, or (h) methamphetamine;

26 (29) Imitation controlled substance shall mean a  
27 substance which is not a controlled substance but which, by way of

1 express or implied representations and consideration of other  
2 relevant factors including those specified in section 28-445, would  
3 lead a reasonable person to believe the substance is a controlled  
4 substance. A placebo or registered investigational drug  
5 manufactured, distributed, possessed, or delivered in the ordinary  
6 course of practice or research by a health care professional shall  
7 not be deemed to be an imitation controlled substance;

8 (30) (a) Controlled substance analogue shall mean a  
9 substance (i) the chemical structure of which is substantially  
10 similar to the chemical structure of a Schedule I or Schedule II  
11 controlled substance as provided in section 28-405 or (ii) which  
12 has a stimulant, depressant, analgesic, or hallucinogenic effect on  
13 the central nervous system that is substantially similar to or  
14 greater than the stimulant, depressant, analgesic, or  
15 hallucinogenic effect on the central nervous system of a Schedule I  
16 or Schedule II controlled substance as provided in section 28-405.  
17 A controlled substance analogue shall, to the extent intended for  
18 human consumption, be treated as a controlled substance under  
19 Schedule I of section 28-405 for purposes of the Uniform Controlled  
20 Substances Act; and

21 (b) Controlled substance analogue shall not include (i) a  
22 controlled substance, (ii) any substance generally recognized as  
23 safe and effective within the meaning of the Federal Food, Drug,  
24 and Cosmetic Act, 21 U.S.C. 301 et seq., as such act existed on  
25 January 1, 2003, (iii) any substance for which there is an approved  
26 new drug application, or (iv) with respect to a particular person,  
27 any substance if an exemption is in effect for investigational use

1 for that person, under section 505 of the Federal Food, Drug, and  
2 Cosmetic Act, 21 U.S.C. 355, as such section existed on January 1,  
3 2003, to the extent conduct with respect to such substance is  
4 pursuant to such exemption;

5 (31) Anabolic steroid shall mean any drug or hormonal  
6 substance, chemically and pharmacologically related to testosterone  
7 (other than estrogens, progestins, and corticosteroids), that  
8 promotes muscle growth and includes any controlled substance in  
9 Schedule III(d) of section 28-405. Anabolic steroid shall not  
10 include any anabolic steroid which is expressly intended for  
11 administration through implants to cattle or other nonhuman species  
12 and has been approved by the Secretary of Health and Human Services  
13 for such administration, but if any person prescribes, dispenses,  
14 or distributes such a steroid for human use, such person shall be  
15 considered to have prescribed, dispensed, or distributed an  
16 anabolic steroid within the meaning of this subdivision;

17 (32) Chart order shall mean an order for a controlled  
18 substance issued by a practitioner for a patient who is in the  
19 hospital where the chart is stored or for a patient receiving  
20 detoxification treatment or maintenance treatment pursuant to  
21 section 28-412. Chart order shall not include a prescription;

22 (33) Medical order shall mean a prescription, a chart  
23 order, or an order for pharmaceutical care issued by a  
24 practitioner;

25 (34) Prescription shall mean an order for a controlled  
26 substance issued by a practitioner. Prescription shall not include  
27 a chart order;

1           (35) Registrant shall mean any person who has a  
2 controlled substances registration issued by the state or the  
3 administration;

4           (36) Reverse distributor shall mean a person whose  
5 primary function is to act as an agent for a pharmacy, wholesaler,  
6 manufacturer, or other entity by receiving, inventorying, and  
7 managing the disposition of outdated, expired, or otherwise  
8 nonsaleable controlled substances; and

9           (37) Signature shall mean the name, word, or mark of a  
10 person written in his or her own hand with the intent to  
11 authenticate a writing or other form of communication or a digital  
12 signature which complies with section 86-611.

13           Sec. 2. Section 28-401.01, Revised Statutes Supplement,  
14 2004, is amended to read:

15           28-401.01. Sections 28-401 to 28-456 and section 6 of  
16 this act shall be known and may be cited as the Uniform Controlled  
17 Substances Act.

18           Sec. 3. Section 28-416, Revised Statutes Supplement,  
19 2004, is amended to read:

20           28-416. (1) Except as authorized by the Uniform  
21 Controlled Substances Act, it shall be unlawful for any person  
22 knowingly or intentionally: (a) To manufacture, distribute,  
23 deliver, dispense, or possess with intent to manufacture,  
24 distribute, deliver, or dispense a controlled substance; or (b) to  
25 create, distribute, or possess with intent to distribute a  
26 counterfeit controlled substance.

27           (2) Except as provided in subsections (4), (5), (7), (8),

1 (9), and (10) of this section, any person who violates subsection  
2 (1) of this section with respect to: (a) A controlled substance  
3 classified in Schedule I, II, or III of section 28-405 which is an  
4 exceptionally hazardous drug shall be guilty of a Class II felony;  
5 (b) any other controlled substance classified in Schedule I, II, or  
6 III of section 28-405 shall be guilty of a Class III felony; or (c)  
7 a controlled substance classified in Schedule IV or V of section  
8 28-405 shall be guilty of a Class IIIA felony.

9 (3) A person knowingly or intentionally possessing a  
10 controlled substance, except marijuana, unless such substance was  
11 obtained directly or pursuant to a medical order issued by a  
12 practitioner authorized to prescribe while acting in the course of  
13 his or her professional practice, or except as otherwise authorized  
14 by the act, shall be guilty of a Class IV felony.

15 (4) (a) Except as authorized by the Uniform Controlled  
16 Substances Act, any person eighteen years of age or older who  
17 knowingly or intentionally manufactures, distributes, delivers,  
18 dispenses, or possesses with intent to manufacture, distribute,  
19 deliver, or dispense a controlled substance or a counterfeit  
20 controlled substance (i) to a person under the age of eighteen  
21 years, (ii) in, on, or within one thousand feet of the real  
22 property comprising a public or private elementary, vocational, or  
23 secondary school, a community college, a public or private college,  
24 junior college, or university, or a playground, or (iii) within one  
25 hundred feet of a public or private youth center, public swimming  
26 pool, or video arcade facility shall be punished by the next higher  
27 penalty classification than the penalty prescribed in subsection

1 (2), (7), (8), (9), or (10) of this section, depending upon the  
2 controlled substance involved, for the first violation and for a  
3 second or subsequent violation shall be punished by the next higher  
4 penalty classification than that prescribed for a first violation  
5 of this subsection, but in no event shall such person be punished  
6 by a penalty greater than a Class IB felony.

7 (b) For purposes of this subsection:

8 (i) Playground shall mean any outdoor facility, including  
9 any parking lot appurtenant to the facility, intended for  
10 recreation, open to the public, and with any portion containing  
11 three or more apparatus intended for the recreation of children,  
12 including sliding boards, swingsets, and teeterboards;

13 (ii) Video arcade facility shall mean any facility  
14 legally accessible to persons under eighteen years of age, intended  
15 primarily for the use of pinball and video machines for amusement,  
16 and containing a minimum of ten pinball or video machines; and

17 (iii) Youth center shall mean any recreational facility  
18 or gymnasium, including any parking lot appurtenant to the facility  
19 or gymnasium, intended primarily for use by persons under eighteen  
20 years of age which regularly provides athletic, civic, or cultural  
21 activities.

22 (5) (a) Except as authorized by the Uniform Controlled  
23 Substances Act, it shall be unlawful for any person eighteen years  
24 of age or older to knowingly and intentionally employ, hire, use,  
25 cause, persuade, coax, induce, entice, seduce, or coerce any person  
26 under the age of eighteen years to manufacture, transport,  
27 distribute, carry, deliver, dispense, prepare for delivery, offer

1 for delivery, or possess with intent to do the same a controlled  
2 substance or a counterfeit controlled substance.

3 (b) Except as authorized by the Uniform Controlled  
4 Substances Act, it shall be unlawful for any person eighteen years  
5 of age or older to knowingly and intentionally employ, hire, use,  
6 cause, persuade, coax, induce, entice, seduce, or coerce any person  
7 under the age of eighteen years to aid and abet any person in the  
8 manufacture, transportation, distribution, carrying, delivery,  
9 dispensing, preparation for delivery, offering for delivery, or  
10 possession with intent to do the same of a controlled substance or  
11 a counterfeit controlled substance.

12 (c) Any person who violates subdivision (a) or (b) of  
13 this subsection shall be punished by the next higher penalty  
14 classification than the penalty prescribed in subsection (2), (7),  
15 (8), (9), or (10) of this section, depending upon the controlled  
16 substance involved, for the first violation and for a second or  
17 subsequent violation shall be punished by the next higher penalty  
18 classification than that prescribed for a first violation of this  
19 subsection, but in no event shall such person be punished by a  
20 penalty greater than a Class IB felony.

21 (6) It shall not be a defense to prosecution for  
22 violation of subsection (4) or (5) of this section that the  
23 defendant did not know the age of the person through whom the  
24 defendant violated such subsection.

25 (7) Any person who violates subsection (1) of this  
26 section with respect to cocaine or any mixture or substance  
27 containing a detectable amount of cocaine in a quantity of:

1                   (a) One hundred forty grams or more shall be guilty of a  
2 Class IB felony;

3                   (b) At least twenty-eight grams but less than one hundred  
4 forty grams shall be guilty of a Class IC felony; or

5                   (c) At least ten grams but less than twenty-eight grams  
6 shall be guilty of a Class ID felony.

7                   (8) Any person who violates subsection (1) of this  
8 section with respect to base cocaine (crack) or any mixture or  
9 substance containing a detectable amount of base cocaine in a  
10 quantity of:

11                   (a) One hundred forty grams or more shall be guilty of a  
12 Class IB felony;

13                   (b) At least twenty-eight grams but less than one hundred  
14 forty grams shall be guilty of a Class IC felony; or

15                   (c) At least ten grams but less than twenty-eight grams  
16 shall be guilty of a Class ID felony.

17                   (9) Any person who violates subsection (1) of this  
18 section with respect to heroin or any mixture or substance  
19 containing a detectable amount of heroin in a quantity of:

20                   ~~(a) Five hundred grams or more shall be guilty of a Class~~  
21 ~~IB felony;~~

22                   ~~(b) One hundred grams or more but less than five hundred~~  
23 ~~grams shall be guilty of a Class IC felony; or~~

24                   ~~(c) Twenty-eight grams or more but less than one hundred~~  
25 ~~grams shall be guilty of a Class ID felony~~ (a) One hundred forty  
26 grams or more shall be guilty of a Class IB felony;

27                   (b) At least twenty-eight grams but less than one hundred

1 forty grams shall be guilty of a Class IC felony; or

2 (c) At least ten grams but less than twenty-eight grams  
3 shall be guilty of a Class ID felony.

4 (10) Any person who violates subsection (1) of this  
5 section with respect to amphetamine, its salts, optical isomers,  
6 and salts of its isomers, or with respect to methamphetamine, its  
7 salts, optical isomers, and salts of its isomers, in a quantity of:

8 ~~(a) Sixteen ounces or more shall be guilty of a Class IC~~  
9 ~~felony;~~

10 ~~(b) Seven ounces or more but less than sixteen ounces~~  
11 ~~shall be guilty of a Class ID felony; or~~

12 ~~(c) Three and one-half ounces or more but less than seven~~  
13 ~~ounces shall be guilty of a Class II felony~~ (a) One hundred forty  
14 grams or more shall be guilty of a Class IB felony;

15 (b) At least twenty-eight grams but less than one hundred  
16 forty grams shall be guilty of a Class IC felony; or

17 (c) At least ten grams but less than twenty-eight grams  
18 shall be guilty of a Class ID felony.

19 (11) Any person knowingly or intentionally possessing  
20 marijuana weighing more than one ounce but not more than one pound  
21 shall be guilty of a Class IIIA misdemeanor.

22 (12) Any person knowingly or intentionally possessing  
23 marijuana weighing more than one pound shall be guilty of a Class  
24 IV felony.

25 (13) Any person knowingly or intentionally possessing  
26 marijuana weighing one ounce or less shall:

27 (a) For the first offense, be guilty of an infraction,

1 receive a citation, be fined one hundred dollars, and be assigned  
2 to attend a course as prescribed in section 29-433 if the judge  
3 determines that attending such course is in the best interest of  
4 the individual defendant;

5 (b) For the second offense, be guilty of a Class IV  
6 misdemeanor, receive a citation, and be fined two hundred dollars  
7 and may be imprisoned not to exceed five days; and

8 (c) For the third and all subsequent offenses, be guilty  
9 of a Class IIIA misdemeanor, receive a citation, be fined three  
10 hundred dollars, and be imprisoned not to exceed seven days.

11 (14) Any person convicted of violating this section, if  
12 placed on probation, shall, as a condition of probation,  
13 satisfactorily attend and complete appropriate treatment and  
14 counseling on drug abuse provided by a program authorized under the  
15 Nebraska Behavioral Health Services Act or other licensed drug  
16 treatment facility.

17 (15) Any person convicted of violating this section, if  
18 sentenced to the Department of Correctional Services, shall attend  
19 appropriate treatment and counseling on drug abuse.

20 (16) Any person knowingly or intentionally possessing a  
21 firearm while in violation of subsection (1) of this section shall  
22 be punished by the next higher penalty classification than the  
23 penalty prescribed in subsection (2), (7), (8), (9), or (10) of  
24 this section, but in no event shall such person be punished by a  
25 penalty greater than a Class IB felony.

26 (17) A person knowingly or intentionally possessing a  
27 ~~firearm while in violation of subsection (1) of this section or~~

1 ~~while~~ in possession of money used or intended to be used to  
2 facilitate a violation of subsection (1) of this section shall be  
3 guilty of a Class IV felony.

4           Sec. 4. Section 28-450, Revised Statutes Supplement,  
5 2004, is amended to read:

6           28-450. No person shall sell, distribute, or otherwise  
7 transfer any drug product containing ephedrine, pseudoephedrine, or  
8 phenylpropanolamine, or their salts, isomers, or salts of isomers,  
9 if the person knows that the transferee will use the drug product  
10 as an immediate precursor to any controlled substance. No person  
11 shall unlawfully sell, ~~transfer,~~ ~~or~~ distribute, or otherwise  
12 transfer such a product with reckless disregard as to how the drug  
13 product will be used. Any person who violates this section is  
14 guilty of a Class III misdemeanor.

15           Sec. 5. Section 28-456, Revised Statutes Supplement,  
16 2004, is amended to read:

17           28-456.           (1) Any drug products containing  
18 phenylpropanolamine, pseudoephedrine, or their salts, optical  
19 isomers, or salts of such optical isomers may be sold without a  
20 prescription only if they are:

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

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

26                   (c) Packaged as follows:

27                           (i) Except for liquids, sold in package sizes of not more

1 than ~~three grams~~ one thousand four hundred forty milligrams of  
2 pseudoephedrine base or ~~three grams~~ one thousand four hundred forty  
3 milligrams of phenylpropanolamine base, in blister packs, each  
4 blister containing not more than two dosage units, or if the use of  
5 blister packs is technically infeasible, in unit dose packets or  
6 pouches; and

7 (ii) For liquids, sold in package sizes of not more than  
8 ~~three grams~~ one thousand four hundred forty milligrams of  
9 pseudoephedrine base or ~~three grams~~ one thousand four hundred forty  
10 milligrams of phenylpropanolamine base;

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

14 (i) No customer shall be allowed to purchase, receive, or  
15 otherwise acquire more than one thousand four hundred forty  
16 milligrams of pseudoephedrine base or one thousand four hundred  
17 forty milligrams of phenylpropanolamine base during a  
18 twenty-four-hour period; and

19 (ii) The customer shall display an operator's license or  
20 state identification card as proof of identification; and

21 (e) Stored behind a counter, in an area not accessible to  
22 customers, or in a locked case so that a customer needs assistance  
23 from an employee to access the drug product.

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

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

7           Sec. 6. No person shall, by retail, purchase, receive,  
8 or otherwise acquire any drug product containing more than one  
9 thousand four hundred forty milligrams of pseudoephedrine base or  
10 one thousand four hundred forty milligrams of phenylpropanolamine  
11 base during a twenty-four-hour period unless purchased pursuant to  
12 a medical order. Any person who violates this section shall be  
13 guilty of an infraction as defined in section 29-431.

14           Sec. 7. Original sections 28-401, 28-401.01, 28-416,  
15 28-450, and 28-456, Revised Statutes Supplement, 2004, are  
16 repealed."

17           2. On page 1, line 2, after the first comma insert  
18 "28-401.01,"; and in line 6 after the semicolon insert "to  
19 harmonize provisions;".