

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 218

FINAL READING

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
5 isomers, or salts of such optical isomers may be sold without a
6 prescription 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
13 more than ~~one thousand four hundred forty milligrams~~ three
14 and six-tenths grams of pseudoephedrine base or ~~one thousand~~
15 ~~four 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
24 the course of his or her employment to a customer, eighteen years
25 of age or older, with the following restrictions:

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

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

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

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

1 shall issue an order removing the exemption.

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

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