

SENATE BILL No. 80

DIGEST OF INTRODUCED BILL

Citations Affected: IC 10-11-2-31.5; IC 25-26-13-4; IC 34-30-2-152.3; IC 35-31.5-2-106.5; IC 35-48-4.

Synopsis: Pharmacists and ephedrine. Defines "drug related felony", and requires courts to report drug related felonies to the state police department. Requires the state police department to report drug related felonies to NPLeX so that NPLeX can generate a stop sale alert to prevent individuals with drug related felonies from purchasing ephedrine or pseudoephedrine. Provides that the offense of possession of a precursor by a methamphetamine offender (which prohibits the possession of pseudoephedrine or ephedrine without a prescription by persons convicted of certain offenses) applies to a person who has been convicted of a drug related felony. Allows a pharmacist to deny the sale of ephedrine or pseudoephedrine on the basis of the pharmacist's professional judgment, and provides the pharmacist with civil immunity for making such a denial. Allows the Indiana board of pharmacy to: (1) adopt rules regarding professional determinations made; (2) review professional determinations made; and (3) discipline a pharmacist for a professional determination made; concerning refusal to sell ephedrine or pseudoephedrine.

Effective: July 1, 2016.

Head, Merritt

January 5, 2016, read first time and referred to Committee on Family & Children Services.



Second Regular Session 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

SENATE BILL No. 80

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 10-11-2-31.5 IS ADDED TO THE INDIANA
- 2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 3 [EFFECTIVE JULY 1, 2016]: **Sec. 31.5. (a) As used in this section,**
- 4 **"drug related felony" has the meaning set forth in**
- 5 **IC 35-48-4-18(a).**
- 6 **(b) The superintendent shall:**
- 7 **(1) receive reports from courts regarding drug related**
- 8 **felonies;**
- 9 **(2) notify the National Precursor Log Exchange (NPLEx) of**
- 10 **each drug related felony entered within the previous seven (7)**
- 11 **years and provide the following information:**
- 12 **(A) the convicted individual's full name;**
- 13 **(B) the convicted individual's date of birth;**
- 14 **(C) the convicted individual's driver's license number or**
- 15 **state personal identification number; and**
- 16 **(D) the date the individual was convicted of the drug**
- 17 **related felony;**



1 **(3) request that a stop sale alert be generated through the**
 2 **National Precursor Log Exchange (NPLEx) for each**
 3 **individual reported under subdivision (2); and**

4 **(4) notify the National Precursor Log Exchange (NPLEx):**

5 **(A) if the drug related felony of an individual reported**
 6 **under subdivision (2) has been:**

7 **(i) set aside;**

8 **(ii) reversed;**

9 **(iii) expunged; or**

10 **(iv) vacated; and**

11 **(B) if clause (A) applies, that a stop sale alert should not be**
 12 **issued for the individual.**

13 SECTION 2. IC 25-26-13-4, AS AMENDED BY P.L.182-2009(ss),
 14 SECTION 371, IS AMENDED TO READ AS FOLLOWS
 15 [EFFECTIVE JULY 1, 2016]: Sec. 4. (a) The board may:

16 (1) promulgate rules and regulations under IC 4-22-2 for
 17 implementing and enforcing this chapter;

18 (2) establish requirements and tests to determine the moral,
 19 physical, intellectual, educational, scientific, technical, and
 20 professional qualifications for applicants for pharmacists'
 21 licenses;

22 (3) refuse to issue, deny, suspend, or revoke a license or permit or
 23 place on probation or fine any licensee or permittee under this
 24 chapter;

25 (4) regulate the sale of drugs and devices in the state of Indiana;
 26 (5) impound, embargo, confiscate, or otherwise prevent from
 27 disposition any drugs, medicines, chemicals, poisons, or devices
 28 which by inspection are deemed unfit for use or would be
 29 dangerous to the health and welfare of the citizens of the state of
 30 Indiana; the board shall follow those embargo procedures found
 31 in IC 16-42-1-18 through IC 16-42-1-31, and persons may not
 32 refuse to permit or otherwise prevent members of the board or
 33 their representatives from entering such places and making such
 34 inspections;

35 (6) prescribe minimum standards with respect to physical
 36 characteristics of pharmacies, as may be necessary to the
 37 maintenance of professional surroundings and to the protection of
 38 the safety and welfare of the public;

39 (7) subject to IC 25-1-7, investigate complaints, subpoena
 40 witnesses, schedule and conduct hearings on behalf of the public
 41 interest on any matter under the jurisdiction of the board;

42 (8) prescribe the time, place, method, manner, scope, and subjects



- 1 of licensing examinations which shall be given at least twice
 2 annually; and
 3 (9) perform such other duties and functions and exercise such
 4 other powers as may be necessary to implement and enforce this
 5 chapter.
- 6 (b) The board shall adopt rules under IC 4-22-2 for the following:
- 7 (1) Establishing standards for the competent practice of
 8 pharmacy.
- 9 (2) Establishing the standards for a pharmacist to counsel
 10 individuals regarding the proper use of drugs.
- 11 (3) Establishing standards and procedures before January 1, 2006,
 12 to ensure that a pharmacist:
- 13 (A) has entered into a contract that accepts the return of
 14 expired drugs with; or
- 15 (B) is subject to a policy that accepts the return of expired
 16 drugs of;
- 17 a wholesaler, manufacturer, or agent of a wholesaler or
 18 manufacturer concerning the return by the pharmacist to the
 19 wholesaler, the manufacturer, or the agent of expired legend drugs
 20 or controlled drugs. In determining the standards and procedures,
 21 the board may not interfere with negotiated terms related to cost,
 22 expenses, or reimbursement charges contained in contracts
 23 between parties, but may consider what is a reasonable quantity
 24 of a drug to be purchased by a pharmacy. The standards and
 25 procedures do not apply to vaccines that prevent influenza,
 26 medicine used for the treatment of malignant hyperthermia, and
 27 other drugs determined by the board to not be subject to a return
 28 policy. An agent of a wholesaler or manufacturer must be
 29 appointed in writing and have policies, personnel, and facilities
 30 to handle properly returns of expired legend drugs and controlled
 31 substances.
- 32 (c) The board may grant or deny a temporary variance to a rule it
 33 has adopted if:
- 34 (1) the board has adopted rules which set forth the procedures and
 35 standards governing the grant or denial of a temporary variance;
 36 and
- 37 (2) the board sets forth in writing the reasons for a grant or denial
 38 of a temporary variance.
- 39 (d) The board shall adopt rules and procedures, in consultation with
 40 the medical licensing board, concerning the electronic transmission of
 41 prescriptions. The rules adopted under this subsection must address the
 42 following:



- 1 (1) Privacy protection for the practitioner and the practitioner's
 2 patient.
 3 (2) Security of the electronic transmission.
 4 (3) A process for approving electronic data intermediaries for the
 5 electronic transmission of prescriptions.
 6 (4) Use of a practitioner's United States Drug Enforcement
 7 Agency registration number.
 8 (5) Protection of the practitioner from identity theft or fraudulent
 9 use of the practitioner's prescribing authority.
 10 (e) The governor may direct the board to develop:
 11 (1) a prescription drug program that includes the establishment of
 12 criteria to eliminate or significantly reduce prescription fraud; and
 13 (2) a standard format for an official tamper resistant prescription
 14 drug form for prescriptions (as defined in IC 16-42-19-7(1)).
 15 The board may adopt rules under IC 4-22-2 necessary to implement
 16 this subsection.
 17 (f) The standard format for a prescription drug form described in
 18 subsection (e)(2) must include the following:
 19 (1) A counterfeit protection bar code with human readable
 20 representation of the data in the bar code.
 21 (2) A thermochromic mark on the front and the back of the
 22 prescription that:
 23 (A) is at least one-fourth (1/4) of one (1) inch in height and
 24 width; and
 25 (B) changes from blue to clear when exposed to heat.
 26 (g) The board may contract with a supplier to implement and
 27 manage the prescription drug program described in subsection (e). The
 28 supplier must:
 29 (1) have been audited by a third party auditor using the SAS 70
 30 audit or an equivalent audit for at least the three (3) previous
 31 years; and
 32 (2) be audited by a third party auditor using the SAS 70 audit or
 33 an equivalent audit throughout the duration of the contract;
 34 in order to be considered to implement and manage the program.
 35 **(h) The board may:**
 36 **(1) adopt rules under IC 4-22-2 regarding professional**
 37 **determinations made;**
 38 **(2) review determinations made by a pharmacist; and**
 39 **(3) take appropriate disciplinary action against a pharmacist**
 40 **for a determination made;**
 41 **under IC 35-48-4-14.7 concerning the sale of ephedrine and**
 42 **pseudoephedrine.**



1 SECTION 3. IC 34-30-2-152.3, AS AMENDED BY P.L.193-2013,
 2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2016]: Sec. 152.3. (a) ~~IC 35-48-4-14.7~~ **IC 35-48-4-14.7(d)**
 4 **and IC 35-48-4-14.7(k)** (Concerning a pharmacy or ~~NPLEx~~ retailer
 5 who discloses information concerning the sale of a product containing
 6 ephedrine or pseudoephedrine).

7 **(b) IC 35-48-4-14.7(d)(3) (Concerning a pharmacist's**
 8 **professional judgment not to sell ephedrine or pseudoephedrine to**
 9 **an individual).**

10 SECTION 4. IC 35-31.5-2-106.5 IS ADDED TO THE INDIANA
 11 CODE AS A NEW SECTION TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2016]: **Sec. 106.5. "Drug related felony", for**
 13 **purposes of IC 35-48-4-18, has the meaning set forth in**
 14 **IC 35-48-4-18(a).**

15 SECTION 5. IC 35-48-4-14.5, AS AMENDED BY P.L.168-2014,
 16 SECTION 105, IS AMENDED TO READ AS FOLLOWS
 17 [EFFECTIVE JULY 1, 2016]: Sec. 14.5. (a) As used in this section,
 18 "chemical reagents or precursors" refers to one (1) or more of the
 19 following:

- 20 (1) Ephedrine.
- 21 (2) Pseudoephedrine.
- 22 (3) Phenylpropanolamine.
- 23 (4) The salts, isomers, and salts of isomers of a substance
- 24 identified in subdivisions (1) through (3).
- 25 (5) Anhydrous ammonia or ammonia solution (as defined in
- 26 IC 22-11-20-1).
- 27 (6) Organic solvents.
- 28 (7) Hydrochloric acid.
- 29 (8) Lithium metal.
- 30 (9) Sodium metal.
- 31 (10) Ether.
- 32 (11) Sulfuric acid.
- 33 (12) Red phosphorous.
- 34 (13) Iodine.
- 35 (14) Sodium hydroxide (lye).
- 36 (15) Potassium dichromate.
- 37 (16) Sodium dichromate.
- 38 (17) Potassium permanganate.
- 39 (18) Chromium trioxide.
- 40 (19) Benzyl cyanide.
- 41 (20) Phenylacetic acid and its esters or salts.
- 42 (21) Piperidine and its salts.



- 1 (22) Methylamine and its salts.
 2 (23) Isosafrole.
 3 (24) Safrole.
 4 (25) Piperonal.
 5 (26) Hydriodic acid.
 6 (27) Benzaldehyde.
 7 (28) Nitroethane.
 8 (29) Gamma-butyrolactone.
 9 (30) White phosphorus.
 10 (31) Hypophosphorous acid and its salts.
 11 (32) Acetic anhydride.
 12 (33) Benzyl chloride.
 13 (34) Ammonium nitrate.
 14 (35) Ammonium sulfate.
 15 (36) Hydrogen peroxide.
 16 (37) Thionyl chloride.
 17 (38) Ethyl acetate.
 18 (39) Pseudoephedrine hydrochloride.
 19 (b) A person who possesses more than ten (10) grams of ephedrine,
 20 pseudoephedrine, or phenylpropanolamine, pure or adulterated,
 21 commits a Level 6 felony. However, the offense is a Level 5 felony if
 22 the person possessed:
 23 (1) a firearm while possessing more than ten (10) grams of
 24 ephedrine, pseudoephedrine, or phenylpropanolamine, pure or
 25 adulterated; or
 26 (2) more than ten (10) grams of ephedrine, pseudoephedrine, or
 27 phenylpropanolamine, pure or adulterated, in, on, or within five
 28 hundred (500) feet of:
 29 (A) school property while a person under eighteen (18) years
 30 of age was reasonably expected to be present; or
 31 (B) a public park while a person under eighteen (18) years of
 32 age was reasonably expected to be present.
 33 (c) A person who possesses anhydrous ammonia or ammonia
 34 solution (as defined in IC 22-11-20-1) with the intent to manufacture
 35 methamphetamine or amphetamine, schedule II controlled substances
 36 under IC 35-48-2-6, commits a Level 6 felony. However, the offense
 37 is a Level 5 felony if the person possessed:
 38 (1) a firearm while possessing anhydrous ammonia or ammonia
 39 solution (as defined in IC 22-11-20-1) with intent to manufacture
 40 methamphetamine or amphetamine, schedule II controlled
 41 substances under IC 35-48-2-6; or
 42 (2) anhydrous ammonia or ammonia solution (as defined in



1 IC 22-11-20-1) with intent to manufacture methamphetamine or
2 amphetamine, schedule II controlled substances under
3 IC 35-48-2-6, in, on, or within five hundred (500) feet of:

4 (A) school property while a person under eighteen (18) years
5 of age was reasonably expected to be present; or

6 (B) a public park while a person under eighteen (18) years of
7 age was reasonably expected to be present.

8 (d) Subsection (b) does not apply to a:

9 (1) licensed health care provider, pharmacist, retail distributor,
10 wholesaler, manufacturer, warehouseman, or common carrier or
11 an agent of any of these persons if the possession is in the regular
12 course of lawful business activities; or

13 (2) person who possesses more than ten (10) grams of a substance
14 described in subsection (b) if the substance is possessed under
15 circumstances consistent with typical medicinal or household use,
16 including:

17 (A) the location in which the substance is stored;

18 (B) the possession of the substance in a variety of:

19 (i) strengths;

20 (ii) brands; or

21 (iii) types; or

22 (C) the possession of the substance:

23 (i) with different expiration dates; or

24 (ii) in forms used for different purposes.

25 (e) A person who possesses two (2) or more chemical reagents or
26 precursors with the intent to manufacture a controlled substance
27 commits a Level 6 felony.

28 (f) An offense under subsection (e) is a Level 5 felony if the person
29 possessed:

30 (1) a firearm while possessing two (2) or more chemical reagents
31 or precursors with intent to manufacture a controlled substance;
32 or

33 (2) two (2) or more chemical reagents or precursors with intent to
34 manufacture a controlled substance in, on, or within five hundred
35 (500) feet of:

36 (A) school property while a person under eighteen (18) years
37 of age was reasonably expected to be present; or

38 (B) a public park while a person under eighteen (18) years of
39 age was reasonably expected to be present.

40 (g) A person who sells, transfers, distributes, or furnishes a chemical
41 reagent or precursor to another person with knowledge or the intent that
42 the recipient will use the chemical reagent or precursors to manufacture



1 a controlled substance commits unlawful sale of a precursor, a Level
2 6 felony. However, the offense is a Level 5 felony if the person sells,
3 transfers, distributes, or furnishes more than ten (10) grams of
4 ephedrine, pseudoephedrine, or phenylpropanolamine.

5 (h) This subsection does not apply to a drug containing ephedrine,
6 pseudoephedrine, or phenylpropanolamine that is dispensed under a
7 prescription. A person who:

8 (1) has been convicted of:

9 (A) dealing in methamphetamine (IC 35-48-4-1.1);

10 (B) possession of more than ten (10) grams of ephedrine,
11 pseudoephedrine, or phenylpropanolamine (subsection (b));

12 (C) possession of anhydrous ammonia or ammonia solution (as
13 defined in IC 22-11-20-1) with intent to manufacture
14 methamphetamine or amphetamine (subsection (c));

15 (D) possession of two (2) or more chemical reagents or
16 precursors with the intent to manufacture a controlled
17 substance (subsection (e)); ~~or~~

18 (E) unlawful sale of a precursor (subsection (g)); **or**

19 **(F) another drug related felony (as defined in**
20 **IC 35-48-4-18); and**

21 (2) not later than seven (7) years from the date the person was
22 sentenced for the offense;

23 knowingly or intentionally possesses ephedrine, pseudoephedrine, or
24 phenylpropanolamine, pure or adulterated, commits possession of a
25 precursor by a methamphetamine offender, a Level 6 felony.

26 SECTION 6. IC 35-48-4-14.7, AS AMENDED BY P.L.193-2013,
27 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
28 JULY 1, 2016]: Sec. 14.7. (a) This section does not apply to the
29 following:

30 (1) Ephedrine or pseudoephedrine dispensed pursuant to a
31 prescription.

32 (2) The sale of a drug containing ephedrine or pseudoephedrine
33 to a licensed health care provider, pharmacist, retail distributor,
34 wholesaler, manufacturer, or an agent of any of these persons if
35 the sale occurs in the regular course of lawful business activities.
36 However, a retail distributor, wholesaler, or manufacturer is
37 required to report a suspicious order to the state police department
38 in accordance with subsection (g).

39 (3) The sale of a drug containing ephedrine or pseudoephedrine
40 by a person who does not sell exclusively to walk-in customers for
41 the personal use of the walk-in customers. However, if the person
42 described in this subdivision is a retail distributor, wholesaler, or



- 1 manufacturer, the person is required to report a suspicious order
 2 to the state police department in accordance with subsection (g).
 3 (b) The following definitions apply throughout this section:
 4 (1) "Constant video monitoring" means the surveillance by an
 5 automated camera that:
 6 (A) records at least one (1) photograph or digital image every
 7 ten (10) seconds;
 8 (B) retains a photograph or digital image for at least
 9 seventy-two (72) hours;
 10 (C) has sufficient resolution and magnification to permit the
 11 identification of a person in the area under surveillance; and
 12 (D) stores a recorded photograph or digital image at a location
 13 that is immediately accessible to a law enforcement officer.
 14 (2) "Convenience package" means a package that contains a drug
 15 having as an active ingredient not more than sixty (60) milligrams
 16 of ephedrine or pseudoephedrine, or both.
 17 (3) "Ephedrine" means pure or adulterated ephedrine.
 18 (4) "Pharmacy" ~~or NPLeX retailer~~ means: **includes:**
 19 (A) a pharmacy, as defined in IC 25-26-13-2; **or**
 20 (B) a retailer containing a pharmacy, as defined in
 21 IC 25-26-13-2. ~~or~~
 22 ~~(C) a retailer that electronically submits the required~~
 23 ~~information to the National Precursor Log Exchange (NPLeX)~~
 24 ~~administered by the National Association of Drug Diversion~~
 25 ~~Investigators (NADDI);~~
 26 (5) "Pseudoephedrine" means pure or adulterated
 27 pseudoephedrine.
 28 (6) "Retailer" means a grocery store, general merchandise store,
 29 or other similar establishment. The term does not include a
 30 pharmacy or NPLeX retailer.
 31 (7) "Suspicious order" means a sale or transfer of a drug
 32 containing ephedrine or pseudoephedrine if the sale or transfer:
 33 (A) is a sale or transfer that the retail distributor, wholesaler,
 34 or manufacturer is required to report to the United States Drug
 35 Enforcement Administration;
 36 (B) appears suspicious to the retail distributor, wholesaler, or
 37 manufacturer in light of the recommendations contained in
 38 Appendix A of the report to the United States attorney general
 39 by the suspicious orders task force under the federal
 40 Comprehensive Methamphetamine Control Act of 1996; or
 41 (C) is for cash or a money order in a total amount of at least
 42 two hundred dollars (\$200).



1 (8) "Unusual theft" means the theft or unexplained disappearance
 2 from a particular pharmacy or ~~NPLEx retailer~~ of drugs containing
 3 ten (10) grams or more of ephedrine, pseudoephedrine, or both in
 4 a twenty-four (24) hour period.

5 (c) A drug containing ephedrine or pseudoephedrine may be sold
 6 only by a pharmacy. or ~~NPLEx retailer~~. Except as provided in
 7 subsection (f), a retailer may not sell a drug containing ephedrine or
 8 pseudoephedrine.

9 (d) A pharmacy or ~~NPLEx retailer~~ may sell a drug that contains the
 10 active ingredient of ephedrine, pseudoephedrine, or both only if the
 11 pharmacy or ~~NPLEx retailer~~ complies with the following conditions:

12 (1) The pharmacy or ~~NPLEx retailer~~ does not sell the drug to a
 13 person less than eighteen (18) years of age.

14 (2) The pharmacy or ~~NPLEx retailer~~ does not sell drugs
 15 containing more than:

16 (A) three and six-tenths (3.6) grams of ephedrine or
 17 pseudoephedrine, or both, to one (1) individual on one (1) day;

18 (B) seven and two-tenths (7.2) grams of ephedrine or
 19 pseudoephedrine, or both, to one (1) individual in a thirty (30)
 20 day period; or

21 (C) sixty-one and two-tenths (61.2) grams of ephedrine or
 22 pseudoephedrine, or both, to one (1) individual in a three
 23 hundred sixty-five (365) day period.

24 **(3) Before the sale occurs, the pharmacist shall make a**
 25 **professional determination, based on the pharmacist-patient**
 26 **relationship, as to whether there is a legitimate medical and**
 27 **pharmaceutical need for ephedrine or pseudoephedrine**
 28 **before selling ephedrine or pseudoephedrine to an individual.**
 29 **The pharmacist's professional determination may be based on**
 30 **factors that include the following:**

31 **(A) Prior medication filling history of the individual.**

32 **(B) Screening of the individual.**

33 **(C) Other tools that provide professional reassurance to**
 34 **the pharmacist that a legitimate medical and**
 35 **pharmaceutical need for ephedrine or pseudoephedrine**
 36 **exists.**

37 **(4) The pharmacy or ~~NPLEx retailer~~ requires:**

38 (A) the purchaser to produce a valid government issued photo
 39 identification card showing the date of birth of the person;

40 (B) the purchaser to sign a written or electronic log attesting
 41 to the validity of the information; and

42 (C) the clerk who is conducting the transaction to initial or



1 electronically record the clerk's identification on the log.
 2 Records from the completion of a log must be retained for at least
 3 two (2) years. A law enforcement officer has the right to inspect
 4 and copy a log or the records from the completion of a log in
 5 accordance with state and federal law. A pharmacy ~~or NPLEEx~~
 6 ~~retailer~~ may not sell or release a log or the records from the
 7 completion of a log for a commercial purpose. The Indiana
 8 criminal justice institute may obtain information concerning a log
 9 or the records from the completion of a log from a law
 10 enforcement officer if the information may not be used to identify
 11 a specific individual and is used only for statistical purposes. A
 12 pharmacy ~~or NPLEEx~~ ~~retailer~~ that in good faith releases
 13 information maintained under this subsection is immune from
 14 civil liability unless the release constitutes gross negligence or
 15 intentional, wanton, or willful misconduct.

16 ~~(4)~~ **(5)** The pharmacy ~~or NPLEEx~~ ~~retailer~~ maintains a record of
 17 information for each sale of a nonprescription product containing
 18 pseudoephedrine or ephedrine. Required information includes:

- 19 (A) the name and address of each purchaser;
- 20 (B) the type of identification presented;
- 21 (C) the governmental entity that issued the identification;
- 22 (D) the identification number; and
- 23 (E) the ephedrine or pseudoephedrine product purchased,
 24 including the number of grams the product contains and the
 25 date and time of the transaction.

26 ~~(5)~~ **(6)** Beginning January 1, 2012, a pharmacy ~~or NPLEEx~~ ~~retailer~~
 27 shall, except as provided in subdivision ~~(6)~~; **(7)**, before
 28 completing a sale of an over-the-counter product containing
 29 pseudoephedrine or ephedrine, electronically submit the required
 30 information to the National Precursor Log Exchange (NPLEEx)
 31 administered by the National Association of Drug Diversion
 32 Investigators (NADDI), if the NPLEEx system is available to
 33 pharmacies ~~or NPLEEx~~ ~~retailers~~ in the state without a charge for
 34 accessing the system. The pharmacy ~~or NPLEEx~~ ~~retailer~~ may not
 35 complete the sale if the system generates a stop sale alert,
 36 **including a stop sale alert for an individual convicted of a**
 37 **drug related felony reported under IC 10-11-2-31.5.**

38 ~~(6)~~ **(7)** If a pharmacy ~~or NPLEEx~~ ~~retailer~~ selling a
 39 over-the-counter product containing ephedrine or
 40 pseudoephedrine experiences mechanical or electronic failure of
 41 the electronic sales tracking system and is unable to comply with
 42 the electronic sales tracking requirement, the pharmacy ~~or NPLEEx~~



1 ~~retailer~~ shall maintain a written log or an alternative electronic
 2 recordkeeping mechanism until the pharmacy ~~or NPLEx retailer~~
 3 is able to comply with the electronic sales tracking requirement.
 4 ~~(7)~~ **(8)** The pharmacy ~~or NPLEx retailer~~ stores the drug behind a
 5 counter in an area inaccessible to a customer or in a locked
 6 display case that makes the drug unavailable to a customer
 7 without the assistance of an employee.

8 (e) A person may not purchase drugs containing more than:

- 9 (1) three and six-tenths (3.6) grams of ephedrine or
 10 pseudoephedrine, or both, on one (1) day;
 11 (2) seven and two-tenths (7.2) grams of ephedrine or
 12 pseudoephedrine, or both, in a thirty (30) day period; or
 13 (3) sixty-one and two-tenths (61.2) grams of ephedrine or
 14 pseudoephedrine, or both, in a three hundred sixty-five (365) day
 15 period.

16 These limits apply to the total amount of base ephedrine and
 17 pseudoephedrine contained in the products and not to the overall
 18 weight of the products.

19 (f) This subsection only applies to convenience packages. A retailer
 20 may sell convenience packages under this section without complying
 21 with the conditions listed in subsection (d):

- 22 (1) after June 30, 2013; and
 23 (2) before January 1, 2014.

24 A retailer may not sell drugs containing more than sixty (60)
 25 milligrams of ephedrine or pseudoephedrine, or both in any one (1)
 26 transaction. A retailer who sells convenience packages must secure the
 27 convenience packages behind the counter in an area inaccessible to a
 28 customer or in a locked display case that makes the drug unavailable
 29 to a customer without the assistance of an employee. A retailer may not
 30 sell a drug containing ephedrine or pseudoephedrine after December
 31 31, 2013.

32 (g) A retail distributor, wholesaler, or manufacturer shall report a
 33 suspicious order to the state police department in writing.

34 (h) Not later than three (3) days after the discovery of an unusual
 35 theft at a particular retail store, the pharmacy ~~or NPLEx retailer~~ shall
 36 report the unusual theft to the state police department in writing. If
 37 three (3) unusual thefts occur in a thirty (30) day period at a particular
 38 pharmacy, ~~or NPLEx retailer~~, the pharmacy ~~or NPLEx retailer~~ shall, for
 39 at least one hundred eighty (180) days after the date of the last unusual
 40 theft, locate all drugs containing ephedrine or pseudoephedrine at that
 41 particular pharmacy ~~or NPLEx retailer~~ behind a counter in an area
 42 inaccessible to a customer or in a locked display case that makes the



1 drug unavailable to customers without the assistance of an employee.

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

4 (j) A person who knowingly or intentionally violates this section
5 commits a Class C misdemeanor. However, the offense is a Class A
6 misdemeanor if the person has a prior unrelated conviction under this
7 section.

8 (k) A pharmacy ~~or NPLeX retailer~~ that uses the electronic sales
9 tracking system in accordance with this section is immune from civil
10 liability for any act or omission committed in carrying out the duties
11 required by this section, unless the act or omission was due to
12 negligence, recklessness, or deliberate or wanton misconduct. A
13 pharmacy or NPLeX retailer is immune from liability to a third party
14 unless the pharmacy or NPLeX retailer has violated a provision of this
15 section and the third party brings an action based on the pharmacy's or
16 NPLeX retailer's violation of this section.

17 (l) The following requirements apply to the NPLeX:

18 (1) Information contained in the NPLeX may be shared only with
19 law enforcement officials.

20 (2) A law enforcement official may access Indiana transaction
21 information maintained in the NPLeX for investigative purposes.

22 (3) NADDI may not modify sales transaction data that is shared
23 with law enforcement officials.

24 (4) At least one (1) time per ~~week~~, NADDI shall forward ~~day~~,
25 Indiana data contained in the NPLeX ~~including data concerning~~
26 **a for the previous calendar day shall be forwarded** transaction
27 ~~that could not be completed due to the issuance of a stop sale~~
28 ~~alert~~, to the state police department.

29 SECTION 7. IC 35-48-4-18 IS ADDED TO THE INDIANA CODE
30 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
31 1, 2016]: **Sec. 18. (a) As used in this section, "drug related felony"**
32 **means a felony conviction for an offense described in:**

33 **(1) sections 1 through 11.5 of this chapter; or**

34 **(2) sections 13 through 14.7 of this chapter.**

35 **(b) The court shall report any conviction for a drug related**
36 **felony to the state police department for purposes of**
37 **IC 10-11-2-31.5. The report must contain at least the following**
38 **information:**

39 **(1) The convicted individual's full name.**

40 **(2) The convicted individual's date of birth.**

41 **(3) The convicted individual's driver's license number or state**
42 **personal identification number.**



- 1 **(4) The Indiana Code citation and associated cause number of**
- 2 **the drug related felony of which the individual was convicted.**
- 3 **(5) The date the individual was convicted of the drug related**
- 4 **felony.**

