

SENATE BILL No. 536

DIGEST OF INTRODUCED BILL

Citations Affected: IC 10-11-2-31.5; IC 35-48-4.

Synopsis: Methamphetamine related conviction reporting. Requires courts to report methamphetamine related convictions to the state police department. Requires the state police department to report methamphetamine related convictions to the National Association of Drug Diversion Investigators so that stop sale alerts may be issued through the National Precursor Log Exchange to prevent individuals with methamphetamine related convictions from purchasing ephedrine or pseudoephedrine.

Effective: July 1, 2015.

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January 14, 2015, read first time and referred to Committee on Corrections & Criminal Law.



First Regular Session 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 536

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

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, 2015]: **Sec. 31.5. (a) The superintendent**
4 **shall:**
5 **(1) receive reports from courts regarding methamphetamine**
6 **related convictions;**
7 **(2) notify the National Association of Drug Diversion**
8 **Investigators (NADDI) of each methamphetamine related**
9 **conviction and provide the following information:**
10 **(A) the convicted individual's full name;**
11 **(B) the convicted individual's date of birth;**
12 **(C) the convicted individual's driver's license number or**
13 **state personal identification number;**
14 **(D) a description of the methamphetamine related crime**
15 **for which the individual was convicted; and**
16 **(E) the date the individual was convicted of the**



- 1 **methamphetamine related crime;**
 2 **(3) request that the National Association of Drug Diversion**
 3 **Investigators (NADDI) generate a stop sale alert through the**
 4 **National Precursor Log Exchange (NPLEx) for each**
 5 **individual reported under subdivision (2); and**
 6 **(4) notify the National Association of Drug Diversion**
 7 **Investigators (NADDI):**
 8 **(A) if the methamphetamine related conviction of an**
 9 **individual reported under subdivision (2) has been:**
 10 **(i) set aside;**
 11 **(ii) reversed;**
 12 **(iii) expunged; or**
 13 **(iv) vacated; and**
 14 **(B) if clause (A) applies, that a stop sale alert should not be**
 15 **issued for the individual.**
- 16 SECTION 2. IC 35-48-4-14.7, AS AMENDED BY P.L.193-2013,
 17 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2015]: Sec. 14.7. (a) This section does not apply to the
 19 following:
- 20 (1) Ephedrine or pseudoephedrine dispensed pursuant to a
 21 prescription.
 22 (2) The sale of a drug containing ephedrine or pseudoephedrine
 23 to a licensed health care provider, pharmacist, retail distributor,
 24 wholesaler, manufacturer, or an agent of any of these persons if
 25 the sale occurs in the regular course of lawful business activities.
 26 However, a retail distributor, wholesaler, or manufacturer is
 27 required to report a suspicious order to the state police department
 28 in accordance with subsection (g).
 29 (3) The sale of a drug containing ephedrine or pseudoephedrine
 30 by a person who does not sell exclusively to walk-in customers for
 31 the personal use of the walk-in customers. However, if the person
 32 described in this subdivision is a retail distributor, wholesaler, or
 33 manufacturer, the person is required to report a suspicious order
 34 to the state police department in accordance with subsection (g).
- 35 (b) The following definitions apply throughout this section:
- 36 (1) "Constant video monitoring" means the surveillance by an
 37 automated camera that:
- 38 (A) records at least one (1) photograph or digital image every
 39 ten (10) seconds;
 40 (B) retains a photograph or digital image for at least
 41 seventy-two (72) hours;
 42 (C) has sufficient resolution and magnification to permit the



- 1 identification of a person in the area under surveillance; and
 2 (D) stores a recorded photograph or digital image at a location
 3 that is immediately accessible to a law enforcement officer.
- 4 (2) "Convenience package" means a package that contains a drug
 5 having as an active ingredient not more than sixty (60) milligrams
 6 of ephedrine or pseudoephedrine, or both.
- 7 (3) "Ephedrine" means pure or adulterated ephedrine.
- 8 (4) "Pharmacy or NPLeX retailer" means:
 9 (A) a pharmacy, as defined in IC 25-26-13-2;
 10 (B) a retailer containing a pharmacy, as defined in
 11 IC 25-26-13-2; or
 12 (C) a retailer that electronically submits the required
 13 information to the National Precursor Log Exchange (NPLeX)
 14 administered by the National Association of Drug Diversion
 15 Investigators (NADDI).
- 16 (5) "Pseudoephedrine" means pure or adulterated
 17 pseudoephedrine.
- 18 (6) "Retailer" means a grocery store, general merchandise store,
 19 or other similar establishment. The term does not include a
 20 pharmacy or NPLeX retailer.
- 21 (7) "Suspicious order" means a sale or transfer of a drug
 22 containing ephedrine or pseudoephedrine if the sale or transfer:
 23 (A) is a sale or transfer that the retail distributor, wholesaler,
 24 or manufacturer is required to report to the United States Drug
 25 Enforcement Administration;
 26 (B) appears suspicious to the retail distributor, wholesaler, or
 27 manufacturer in light of the recommendations contained in
 28 Appendix A of the report to the United States attorney general
 29 by the suspicious orders task force under the federal
 30 Comprehensive Methamphetamine Control Act of 1996; or
 31 (C) is for cash or a money order in a total amount of at least
 32 two hundred dollars (\$200).
- 33 (8) "Unusual theft" means the theft or unexplained disappearance
 34 from a particular pharmacy or NPLeX retailer of drugs containing
 35 ten (10) grams or more of ephedrine, pseudoephedrine, or both in
 36 a twenty-four (24) hour period.
- 37 (c) A drug containing ephedrine or pseudoephedrine may be sold
 38 only by a pharmacy or NPLeX retailer. Except as provided in
 39 subsection (f), a retailer may not sell a drug containing ephedrine or
 40 pseudoephedrine.
- 41 (d) A pharmacy or NPLeX retailer may sell a drug that contains the
 42 active ingredient of ephedrine, pseudoephedrine, or both only if the



- 1 pharmacy or NPLeX retailer complies with the following conditions:
 2 (1) The pharmacy or NPLeX retailer does not sell the drug to a
 3 person less than eighteen (18) years of age.
 4 (2) The pharmacy or NPLeX retailer does not sell drugs
 5 containing more than:
 6 (A) three and six-tenths (3.6) grams of ephedrine or
 7 pseudoephedrine, or both, to one (1) individual on one (1) day;
 8 (B) seven and two-tenths (7.2) grams of ephedrine or
 9 pseudoephedrine, or both, to one (1) individual in a thirty (30)
 10 day period; or
 11 (C) sixty-one and two-tenths (61.2) grams of ephedrine or
 12 pseudoephedrine, or both, to one (1) individual in a three
 13 hundred sixty-five (365) day period.
 14 (3) The pharmacy or NPLeX retailer requires:
 15 (A) the purchaser to produce a valid government issued photo
 16 identification card showing the date of birth of the person;
 17 (B) the purchaser to sign a written or electronic log attesting
 18 to the validity of the information; and
 19 (C) the clerk who is conducting the transaction to initial or
 20 electronically record the clerk's identification on the log.
 21 Records from the completion of a log must be retained for at least
 22 two (2) years. A law enforcement officer has the right to inspect
 23 and copy a log or the records from the completion of a log in
 24 accordance with state and federal law. A pharmacy or NPLeX
 25 retailer may not sell or release a log or the records from the
 26 completion of a log for a commercial purpose. The Indiana
 27 criminal justice institute may obtain information concerning a log
 28 or the records from the completion of a log from a law
 29 enforcement officer if the information may not be used to identify
 30 a specific individual and is used only for statistical purposes. A
 31 pharmacy or NPLeX retailer that in good faith releases
 32 information maintained under this subsection is immune from
 33 civil liability unless the release constitutes gross negligence or
 34 intentional, wanton, or willful misconduct.
 35 (4) The pharmacy or NPLeX retailer maintains a record of
 36 information for each sale of a nonprescription product containing
 37 pseudoephedrine or ephedrine. Required information includes:
 38 (A) the name and address of each purchaser;
 39 (B) the type of identification presented;
 40 (C) the governmental entity that issued the identification;
 41 (D) the identification number; and
 42 (E) the ephedrine or pseudoephedrine product purchased,



- 1 including the number of grams the product contains and the
 2 date and time of the transaction.
- 3 (5) Beginning January 1, 2012, a pharmacy or NPLEx retailer
 4 shall, except as provided in subdivision (6), before completing a
 5 sale of an over-the-counter product containing pseudoephedrine
 6 or ephedrine, electronically submit the required information to the
 7 National Precursor Log Exchange (NPLEx) administered by the
 8 National Association of Drug Diversion Investigators (NADDI),
 9 if the NPLEx system is available to pharmacies or NPLEx
 10 retailers in the state without a charge for accessing the system.
 11 The pharmacy or NPLEx retailer may not complete the sale if the
 12 system generates a stop sale alert, **including a stop sale alert for**
 13 **a person convicted of a methamphetamine related crime**
 14 **reported to NADDI under IC 10-11-2-31.5.**
- 15 (6) If a pharmacy or NPLEx retailer selling an over-the-counter
 16 product containing ephedrine or pseudoephedrine experiences
 17 mechanical or electronic failure of the electronic sales tracking
 18 system and is unable to comply with the electronic sales tracking
 19 requirement, the pharmacy or NPLEx retailer shall maintain a
 20 written log or an alternative electronic recordkeeping mechanism
 21 until the pharmacy or NPLEx retailer is able to comply with the
 22 electronic sales tracking requirement.
- 23 (7) The pharmacy or NPLEx retailer stores the drug behind a
 24 counter in an area inaccessible to a customer or in a locked
 25 display case that makes the drug unavailable to a customer
 26 without the assistance of an employee.
- 27 (e) A person may not purchase drugs containing more than:
- 28 (1) three and six-tenths (3.6) grams of ephedrine or
 29 pseudoephedrine, or both, on one (1) day;
 30 (2) seven and two-tenths (7.2) grams of ephedrine or
 31 pseudoephedrine, or both, in a thirty (30) day period; or
 32 (3) sixty-one and two-tenths (61.2) grams of ephedrine or
 33 pseudoephedrine, or both, in a three hundred sixty-five (365) day
 34 period.
- 35 These limits apply to the total amount of base ephedrine and
 36 pseudoephedrine contained in the products and not to the overall
 37 weight of the products.
- 38 (f) This subsection only applies to convenience packages. A retailer
 39 may sell convenience packages under this section without complying
 40 with the conditions listed in subsection (d):
- 41 (1) after June 30, 2013; and
 42 (2) before January 1, 2014.



1 A retailer may not sell drugs containing more than sixty (60)
2 milligrams of ephedrine or pseudoephedrine, or both in any one (1)
3 transaction. A retailer who sells convenience packages must secure the
4 convenience packages behind the counter in an area inaccessible to a
5 customer or in a locked display case that makes the drug unavailable
6 to a customer without the assistance of an employee. A retailer may not
7 sell a drug containing ephedrine or pseudoephedrine after December
8 31, 2013.

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

11 (h) Not later than three (3) days after the discovery of an unusual
12 theft at a particular retail store, the pharmacy or NPLeX retailer shall
13 report the unusual theft to the state police department in writing. If
14 three (3) unusual thefts occur in a thirty (30) day period at a particular
15 pharmacy or NPLeX retailer, the pharmacy or NPLeX retailer shall, for
16 at least one hundred eighty (180) days after the date of the last unusual
17 theft, locate all drugs containing ephedrine or pseudoephedrine at that
18 particular pharmacy or NPLeX retailer behind a counter in an area
19 inaccessible to a customer or in a locked display case that makes the
20 drug unavailable to customers without the assistance of an employee.

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

23 (j) A person who knowingly or intentionally violates this section
24 commits a Class C misdemeanor. However, the offense is a Class A
25 misdemeanor if the person has a prior unrelated conviction under this
26 section.

27 (k) A pharmacy or NPLeX retailer that uses the electronic sales
28 tracking system in accordance with this section is immune from civil
29 liability for any act or omission committed in carrying out the duties
30 required by this section, unless the act or omission was due to
31 negligence, recklessness, or deliberate or wanton misconduct. A
32 pharmacy or NPLeX retailer is immune from liability to a third party
33 unless the pharmacy or NPLeX retailer has violated a provision of this
34 section and the third party brings an action based on the pharmacy's or
35 NPLeX retailer's violation of this section.

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

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

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

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



- 1 (4) At least one (1) time per week, NADDI shall forward Indiana
2 data contained in the NPLeX, including data concerning a
3 transaction that could not be completed due to the issuance of a
4 stop sale alert, to the state police department.
- 5 SECTION 3. IC 35-48-4-18 IS ADDED TO THE INDIANA CODE
6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
7 1, 2015]: **Sec. 18. For any conviction in which the sale, possession,
8 or manufacturing of methamphetamine is an element of the crime,
9 the court shall report the conviction to the state police department
10 for purposes of IC 10-11-2-31.5. The report must contain at least
11 the following information:**
- 12 (1) **The convicted individual's full name.**
13 (2) **The convicted individual's date of birth.**
14 (3) **The convicted individual's driver's license number or state
15 personal identification number.**
16 (4) **A description of the methamphetamine related crime for
17 which the individual was convicted.**
18 (5) **The date the individual was convicted of the
19 methamphetamine related crime.**

