

AMENDMENTS TO LB 20

Introduced by Judiciary

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

3 Section 1. Section 28-101, Revised Statutes Cumulative
4 Supplement, 2010, is amended to read:

5 28-101 Sections 28-101 to 28-1356 and sections 3 to 7 of
6 this act shall be known and may be cited as the Nebraska Criminal
7 Code.

8 Sec. 2. Section 28-401.01, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 28-401.01 Sections 28-401 to 28-456.01 and sections 3 to
11 7 of this act shall be known and may be cited as the Uniform
12 Controlled Substances Act.

13 Sec. 3. For purposes of sections 3 to 7 of this act:

14 (1) Exchange means the National Precursor Log Exchange
15 administered by the National Association of Drug Diversion
16 Investigators;

17 (2) Methamphetamine precursor means any drug product
18 containing ephedrine, pseudoephedrine, or phenylpropanolamine that
19 is required to be documented pursuant to the logbook requirements
20 of 21 U.S.C. 830;

21 (3) Seller means any person who lawfully sells a
22 methamphetamine precursor pursuant to subdivision (1)(d) of section
23 28-456 or his or her employer; and

1 (4) Stop-sale alert means a notification sent to a seller
2 indicating that the completion of a methamphetamine precursor sale
3 would result in a violation of subdivision (1)(d)(i) or (ii) of
4 section 28-456.

5 Sec. 4. (1) Beginning January 1, 2012, each seller
6 shall, before completing a sale of a methamphetamine precursor,
7 electronically submit required information to the exchange, if
8 the exchange is available to sellers. Required information shall
9 include, but not be limited to:

10 (a) The name, age, and address of the person purchasing,
11 receiving, or otherwise acquiring the methamphetamine precursor;

12 (b) The name of the product and quantity of product
13 purchased;

14 (c) The date and time of the purchase;

15 (d) The name or initials of the seller who sold the
16 product; and

17 (e) The type of identification presented by the customer,
18 the governmental entity that issued the identification, and the
19 number on the identification.

20 (2) If a seller experiences mechanical or electronic
21 failure of the electronic logging equipment on the sales end of the
22 transaction or a failure of the exchange and is unable to comply
23 with subsection (1) of this section, the seller shall maintain a
24 written log or an alternative electronic recordkeeping mechanism or
25 may refrain from selling any methamphetamine precursor until such
26 time as the seller is able to comply with subsection (1) of this
27 section.

1 (3) The Attorney General may grant a waiver exempting a
2 seller from compliance with subsection (1) of this section upon a
3 showing of good cause by the seller that he or she is otherwise
4 unable to submit log information by electronic means, including,
5 but not limited to, any financial, technological, or other reason
6 which would place an undue burden on the seller, as established by
7 the Attorney General.

8 (4) Whenever the exchange generates a stop-sale alert,
9 the seller shall not complete the sale unless the seller has a
10 reasonable fear of imminent bodily harm if he or she does not
11 complete the sale. The exchange shall contain an override function
12 to the stop-sale alert for the seller to use in a situation in
13 which a reasonable fear of imminent bodily harm is present.

14 (5) This section does not apply if a lawful prescription
15 for the methamphetamine precursor is presented to a pharmacist
16 licensed under the Uniform Credentialing Act.

17 Sec. 5. As a condition of use in Nebraska, the National
18 Association of Drug Diversion Investigators shall provide real-time
19 access to the exchange through its online portal to law enforcement
20 in this state as authorized by the Attorney General and no fee or
21 charge shall be imposed on a seller for the use of the exchange.

22 Sec. 6. No claim or cause of action shall arise against
23 a seller solely based upon the electronic submission of information
24 to the exchange as required by sections 3 to 7 of this act.

25 Sec. 7. Beginning January 1, 2013, a seller that
26 knowingly fails to submit methamphetamine precursor information
27 to the exchange as required by sections 3 to 7 of this act or

1 knowingly submits incorrect information to the exchange shall be
2 guilty of a Class IV misdemeanor.

3 Sec. 8. Section 60-4,111.01, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 60-4,111.01 (1) The Department of Motor Vehicles,
6 the courts, or law enforcement agencies may store or compile
7 information acquired from an operator's license or a state
8 identification card for their statutorily authorized purposes.

9 (2) Except as otherwise provided in subsection (3) or
10 (4) of this section, no person having use of or access to
11 machine-readable information encoded on an operator's license or a
12 state identification card shall compile, store, preserve, trade,
13 sell, or share such information. Any person who trades, sells, or
14 shares such information shall be guilty of a Class IV felony. Any
15 person who compiles, stores, or preserves such information except
16 as authorized in subsection (3) or (4) of this section shall be
17 guilty of a Class IV felony.

18 (3)(a) For purposes of compliance with and enforcement
19 of restrictions on the purchase of alcohol, lottery tickets, and
20 tobacco products, a retailer who sells any of such items pursuant
21 to a license issued or a contract under the applicable statutory
22 provision may scan machine-readable information encoded on an
23 operator's license or a state identification card presented for the
24 purpose of such a sale. The retailer may store only the following
25 information obtained from the license or card: Age and license or
26 card identification number. The retailer shall post a sign at the
27 point of sale of any of such items stating that the license or

1 card will be scanned and that the age and identification number
2 will be stored. The stored information may only be used by a law
3 enforcement agency for purposes of enforcement of the restrictions
4 on the purchase of alcohol, lottery tickets, and tobacco products
5 and may not be shared with any other person or entity.

6 (b) For purposes of compliance with the provisions of
7 sections 3 to 7 of this act, a seller who sells methamphetamine
8 precursors pursuant to such sections may scan machine-readable
9 information encoded on an operator's license or a state
10 identification card presented for the purpose of such a sale.
11 The seller may store only the following information obtained from
12 the license or card: Name, age, address, type of identification
13 presented by the customer, the governmental entity that issued the
14 identification, and the number on the identification. The seller
15 shall post a sign at the point of sale stating that the license
16 or card will be scanned and stating what information will be
17 stored. The stored information may only be used by law enforcement
18 agencies, regulatory agencies, and the exchange for purposes
19 of enforcement of the restrictions on the sale or purchase of
20 methamphetamine precursors pursuant to sections 3 to 7 of this act
21 and may not be shared with any other person or entity. For purposes
22 of this subdivision, the terms exchange, methamphetamine precursor,
23 and seller have the same meanings as in section 3 of this act.

24 (c) The retailer or seller shall utilize software
25 that stores only the information allowed by this subsection. A
26 programmer for computer software designed to store such information
27 shall certify to the retailer that the software stores only the

1 information allowed by this subsection. Intentional or grossly
2 negligent programming by the programmer which allows for the
3 storage of more than the age and identification number or
4 wrongfully certifying the software shall be a Class IV felony.

5 (d) A retailer or seller who knowingly stores more
6 information than ~~the age and identification number~~ authorized under
7 this subsection from the operator's license or state identification
8 card shall be guilty of a Class IV felony.

9 ~~(b)~~ (e) Information scanned, compiled, stored, or
10 preserved pursuant to subdivision (a) of this subsection may not
11 be retained longer than eighteen months unless required by state
12 or federal law.

13 (4) In order to approve a negotiable instrument, an
14 electronic funds transfer, or a similar method of payment, a person
15 having use of or access to machine-readable information encoded on
16 an operator's license or a state identification card may:

17 (a) Scan, compile, store, or preserve such information
18 in order to provide the information to a check services company
19 subject to and in compliance with the federal Fair Credit Reporting
20 Act, 15 U.S.C. 1681, as such act existed on January 1, 2010, for
21 the purpose of effecting, administering, or enforcing a transaction
22 requested by the holder of the license or card or preventing fraud
23 or other criminal activity; or

24 (b) Scan and store such information only as necessary to
25 protect against or prevent actual or potential fraud, unauthorized
26 transactions, claims, or other liability or to resolve a dispute or
27 inquiry by the holder of the license or card.

1 (5) Except as provided in subdivision (4)(a) of this
2 section, information scanned, compiled, stored, or preserved
3 pursuant to this section may not be traded or sold to or shared
4 with a third party; used for any marketing or sales purpose by any
5 person, including the retailer who obtained the information; or,
6 unless pursuant to a court order, reported to or shared with any
7 third party. A person who violates this subsection shall be guilty
8 of a Class IV felony.

9 Sec. 9. This act becomes operative on January 1, 2012.

10 Sec. 10. Original sections 28-401.01 and 60-4,111.01,
11 Reissue Revised Statutes of Nebraska, and section 28-101, Revised
12 Statutes Cumulative Supplement, 2010, are repealed.