

FEB 9 7 5
Place On Calendar

HOUSE FILE 254
BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HSB 44)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the manufacturing of a controlled substance or
2 counterfeit substance near certain property, and providing for
3 a penalty.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 254

1 Section 1. Section 124.401A, Code 2005, is amended to read
2 as follows:

3 124.401A ENHANCED PENALTY FOR MANUFACTURE OR DISTRIBUTION
4 TO PERSONS ON CERTAIN REAL PROPERTY.

5 In addition to any other penalties provided in this
6 chapter, a person who is eighteen years of age or older who
7 ~~unlawfully manufactures-with-intent-to-distribute~~
8 ~~distributes, or possesses with intent to distribute~~ does any
9 of the following may be sentenced up to an additional term of
10 confinement of five years:

11 1. Manufactures a substance or counterfeit substance
12 listed in schedule I, II, or III, or a simulated controlled
13 substance represented to be a controlled substance classified
14 in schedule I, II, or III, ~~to another person who is eighteen~~
15 ~~years of age or older in or on~~, or within one thousand feet of
16 the real property comprising a public or private elementary or
17 secondary school, public park, public swimming pool, public
18 recreation center, religious institution, or on a marked
19 school bus, ~~may be sentenced up to an additional term of~~
20 ~~confinement of five years.~~

21 2. Distributes, or possesses with intent to distribute, a
22 substance or counterfeit substance listed in schedule I, II,
23 or III, or a simulated controlled substance represented to be
24 a controlled substance classified in schedule I, II, or III,
25 to another person who is eighteen years of age or older in,
26 on, or within one thousand feet of the real property
27 comprising a public or private elementary or secondary school,
28 public park, public swimming pool, public recreation center,
29 religious institution, or on a marked school bus.

30 3. As used in this section, "religious institution" means
31 a building in which an active congregation is devoted to
32 worship.

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EXPLANATION

34 A person, under this bill, who manufactures a controlled
35 substance or simulated or counterfeit substance within 1,000

1 feet of a public or private school, public park, public
2 swimming pool, public recreation area, or religious
3 institution as defined in the bill, or on a marked school bus,
4 may be sentenced up to an additional term of confinement of
5 five years. The bill also provides for the additional
6 confinement of five years if a person distributes or possesses
7 with intent to distribute a controlled substance or simulated
8 or counterfeit substance within 1,000 feet of a religious
9 institution.

10 Current law provides that a person who manufactures a
11 controlled substance or counterfeit substance with the intent
12 to distribute the substance becomes eligible for the
13 additional term of confinement of five years if the
14 manufacturing of the substance is within 1,000 feet of a
15 public or private school, public park, public swimming pool,
16 or public recreation area, or on a marked school bus.

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Fiscal Services Division
Legislative Services Agency
Fiscal Note

HF 254 - Drug Manufacturing Near School (LSB 1122 HV)

Analyst: Beth Lenstra (Phone: (515) 281-6301) (beth.lenstra@legis.state.ia.us)

Fiscal Note Version – NEW

Requested by Representative Kevin McCarthy

Description

House File 254 adds "religious institution" to the locations where an additional term of confinement of five years may be imposed for manufacturing a controlled substance or simulated controlled substance within 1,000 feet of the specific location. Current law includes the following locations: a public or private school, public park, swimming pool, or recreation center, or on a marked school bus. The Bill also provides that an additional term of five years may be imposed for distributing or possessing with intent to distribute a controlled substance or simulated controlled substance within 1,000 feet of a religious institution, public or private school, public park, swimming pool, or recreation center, or on a marked school bus.

Assumptions

1. This analysis is based on information obtained from the Justice Data Warehouse, which includes statewide court and corrections information. Conviction and penalty data is based on FY 2004 data.
2. The law will become effective July 1, 2005. A lag effect of six months is assumed, from the law's effective date to the date of first entry of affected offenders into the correctional system.
3. According to the U.S. Census, there are 1,532 public and 194 private schools in Iowa, and 4,560 religious congregations. The number of public parks, swimming pools, or recreation centers is not known.
4. There were 2,280 offenders convicted of trafficking charges that currently do not carry an enhanced penalty. Approximately 50.0% of these offenders may be subject to the provisions of HF 254.
5. The enhanced penalty of five additional years increases the average length of stay in prison. Offenders convicted of Class B and C drug offenses will have 12 months added to the actual time served in prison. Seven months will be added to the actual time served in prison for drug offenders convicted of Class D felonies. The number of offenders convicted of serious or aggravated misdemeanors and sentenced to prison with the enhanced penalty is estimated to be ten or fewer annually.
6. The enhanced penalty of five additional years increases the number of people sentenced to prison. For example, approximately 9.8% of offenders convicted of an aggravated misdemeanor drug offense are sentenced to prison under current law. Under HF 254, the percentage sentenced to prison may be 31.1%.
7. The marginal cost per day per offender is \$13.00 in the State prison system.
8. The marginal cost per day for probation is \$1.83 per offender.
9. The marginal cost per day for county jail operation is \$15.00.

Correctional Impact

There will be 119 new offenders admitted to prison in FY 2006, and 238 new offenders admitted annually thereafter. The prison population will increase by 116 offenders in FY 2006, 475 offenders in FY 2007, and 1,242 offenders in FY 2010. The impact on the population is greater than the number of admissions due to the significant increase in the average length of stay in prison before parole is granted.

These offenders would have been sentenced to probation under current law. There will be a slight reduction in county jail populations, but that reduction is not anticipated to be significant.

Fiscal Impact

House File 254 is estimated to increase State corrections operating expenses by \$237,000 in FY 2006, and \$1.9 million in FY 2007. This figure includes a reduction in the number of offenders under Community-Based Corrections (CBC) supervision, and an increase in the number of offenders in the State prison system.

A new prison will be required by FY 2008 at an estimated construction cost of \$45.0 million and an annual estimated operating cost of \$28.0 million.

Sources

Department of Human Rights, Criminal and Juvenile Justice Planning Division
Department of Corrections

/s/ Holly M. Lyons

February 22, 2005

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

Alons, chair
Baudler
Bell

UCCE By HSB 44
254 PUBLIC SAFETY

SENATE/HOUSE FILE _____
BY (PROPOSED GOVERNOR'S
OFFICE OF DRUG CONTROL
POLICY BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the manufacturing of a controlled substance or
2 counterfeit substance near property frequented by children,
3 and providing for a penalty.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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2 as follows:

3 124.401A ENHANCED PENALTY FOR MANUFACTURE OR DISTRIBUTION
4 TO PERSONS ON CERTAIN REAL PROPERTY.

5 In addition to any other penalties provided in this
6 chapter, a person who is eighteen years of age or older who
7 unlawfully manufactures-with-intent-to-distribute,
8 distributes, or possesses with intent to distribute does any
9 of the following may be sentenced up to an additional term of
10 confinement of five years:

11 1. Manufactures a substance or counterfeit substance
12 listed in schedule I, II, or III, or a simulated controlled
13 substance represented to be a controlled substance classified
14 in schedule I, II, or III, to another person who is eighteen
15 years of age or older in or on, or within one thousand feet of
16 the real property comprising a public or private elementary or
17 secondary school, public park, public swimming pool, public
18 recreation center, or on a marked school bus, may be sentenced
19 up to an additional term of confinement of five years.

20 2. Distributes, or possesses with intent to distribute, a
21 substance or counterfeit substance listed in schedule I, II,
22 or III, or a simulated controlled substance represented to be
23 a controlled substance classified in schedule I, II, or III,
24 to another person who is eighteen years of age or older in,
25 on, or within one thousand feet of the real property
26 comprising a public or private elementary or secondary school,
27 public park, public swimming pool, public recreation center,
28 or on a marked school bus.

29 EXPLANATION

30 A person, under this bill, who manufactures a controlled
31 substance or counterfeit substance within 1,000 feet of a
32 public or private school, public park, public swimming pool,
33 public recreation area, or on a marked school bus, may be
34 sentenced up to an additional term of confinement of five
35 years.

1 Current law provides that a person who manufactures a
2 controlled substance or counterfeit substance with the intent
3 to distribute the substance becomes eligible for the
4 additional term of confinement of five years if the
5 manufacturing of the substance is within 1,000 feet of a
6 public or private school, public park, public swimming pool,
7 public recreation area, or on a marked school bus.

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