

# SENATE BILL REPORT

## E2SHB 2961

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As of February 24, 2010

**Title:** An act relating to establishing a statewide electronic tracking system for the nonprescription sales of ephedrine, pseudoephedrine, and phenylpropanolamine.

**Brief Description:** Establishing a statewide electronic sales tracking system for the nonprescription sales of ephedrine, pseudoephedrine, and phenylpropanolamine.

**Sponsors:** House Committee on Health & Human Services Appropriations (originally sponsored by Representatives Campbell, Hurst, Morrell, Kelley and Ormsby).

**Brief History:** Passed House: 2/13/10, 74-21.

**Committee Activity:** Health & Long-Term Care: 2/24/10.

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### SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

**Staff:** Rhoda Donkin (786-7465)

**Background:** Methamphetamine is a highly addictive stimulant that affects the central nervous system. Certain drugs that can be purchased without prescription, so-called methamphetamine precursors, may be used to manufacture methamphetamine illegally; e.g., ephedrine, pseudoephedrine, or phenylpropanolamine. There are restrictions on the purchase and sale of methamphetamine precursors which include (1) a ban on sales to individuals under age 18, (2) requirements that purchasers present photo ID, and (3) a requirement that products containing precursors be kept in a central location not accessible to customers without assistance.

There are federal and state regulations on the amount of methamphetamine precursors that may be sold to individual customers. In Washington, the daily sales limit is two packages with no more than three grams per package. A person may not possess more than 15 grams of methamphetamine precursors at a time.

In 2005 the Legislature created a pilot project to determine the efficacy of requiring merchants to maintain electronic logs of methamphetamine precursor purchases. The Board of Pharmacy was required to convene a work group to evaluate the data collected during the pilot project. The work group's report, issued in 2007, found that retail transaction logs are an effective means of restricting access to methamphetamine precursors and recommended an electronic point-of-sale data collection for real-time transmission of information.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Summary of Bill:** Methamphetamine precursors must be placed either behind a counter where the public is not permitted or in a locked display case where customers must ask employees for assistance. A customer must electronically or manually sign a record of any transaction in which the customer purchased methamphetamine precursors. The record must contain the name and address of the purchaser, the date and time of sale, the name and the initials of the seller, and the product and quantity.

The daily sales limit is changed to reflect federal law. A merchant may not sell more than 3.6 grams of methamphetamine precursors to a purchaser in a single day, or more than nine grams in a 30-day period.

The Board of Pharmacy must implement a real-time electronic sales tracking system to monitor the nonprescription sale of products containing methamphetamine precursors. The system must be available without cost for accessing the system to the state or retailers. Electronic sales tracking system must include a stop alert function, notifying the seller of any purchase that violates quantity limits, and an override function for use by any seller who has a reasonable fear of imminent bodily harm.

The records in the electronic tracking system are confidential and only for the use of the seller except that records must be provided to a court when lawfully required, open to inspection by the Board of Pharmacy, for tracking violations or to generate a stop sale alert, and to law enforcement.

Beginning July 1, 2011, or the day the system is available, which ever is sooner, a seller of nonprescription methamphetamine precursors must submit the required information to the electronic system before completing a sale. Written logs may be alternatives in certain circumstances.

A seller participating in the system is not liable for civil damages under circumstances which are described. A seller may submit a written request to the Board for an exemption to the electronic sales tracking system, which may be granted for good cause. Written logs may be an alternative if an exemption is granted.

**Appropriation:** None.

**Fiscal Note:** Requested on February 2, 2010.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: The state has seen a huge drop in home meth labs since these precursor drugs were put behind the counter and limits on amounts sold were enacted into law. This bill takes the curtailing of purchasing precursors one step further and we think it's an important step that will save lives. Anything that continues the fight against meth manufacturing in this state is good for families and kids. Meth has been a scourge and we have already done a lot. It is important to comply with federal law, and this bill does that. The only other option for really controlling the illegal use of these drugs is to make them

prescription drugs, and we don't want to do that because these over-the-counter drugs work for people who can't afford to see a doctor for a cold. The tracking system used is already in use in other capacities by law enforcement and it is high quality. The information in the bill is protected under the state's Consumer Protection Act.

CON: Small retailers who sell these products may not be able to afford a scanner and may not be Internet connected. We think there are many hidden costs and would like to wait until we are sure what they are before passing legislation that commits us to something that we may not be able to afford. We have not had time to completely review what this tracking system would mean and how it would work. The information that consumers are asked to provide violates our right to privacy. When we buy over-the-counter drugs we should not be forced to give up our privacy. At least there should be language in the bill that requires that law enforcement show reasonable suspicion before gaining access to our personal information.

OTHER: We would like to know more about how much this is going to cost vendors.

**Persons Testifying:** PRO: Don Pierce, Washington Association of Sheriffs and Police Chiefs; Chief Steve Strachan, Kent Police; Andrew Fish, Consumer Healthcare Products Association; Anthony Wood, Julia Lay, Safe Streets Youth; Stu Halsan, Rite Aid Corporation; Sarah Kluesner, Greater Pierce County Community Network.

CON: Holly Chisa, NW Grocery Association; Patrick Connor, National Federation of Independent Businesses; Shankar Narayan, ACLU Washington.

OTHER: Mark Johnson, Washington Retail Association; Carolyn Logue, Washington Food Industry.