
Health Care & Wellness Committee

HB 2961

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

Sponsors: Representatives Campbell, Hurst, Morrell, Kelley and Ormsby.

Brief Summary of Bill

- Establishes new restrictions on the sale of methamphetamine precursors.
- Establishes a statewide electronic tracking system for non-prescription sales of methamphetamine precursors.

Hearing Date: 1/26/10

Staff: Jim Morishima (786-7191).

Background:

Restrictions on the Sale of Methamphetamine Precursors.

Methamphetamine is a highly addictive stimulant that affects the central nervous system. Certain drugs that may be purchased without prescription, so-called "methamphetamine precursors," may be used to manufacture methamphetamine illegally; e.g., ephedrine, pseudoephedrine, or phenylpropanolamine. There are therefore several restrictions on the purchase and sale of methamphetamine precursors. These restrictions include:

- a ban on selling methamphetamine precursors to persons under the age of 18;
- a ban on selling methamphetamine precursors unless the purchaser presents photographic identification;
- a requirement that products containing methamphetamine precursors be kept in a central location not accessible to customers without assistance; and
- a cap on a seller's total sales of methamphetamine precursors if the seller previously acquired methamphetamine precursors in a suspicious transaction. The cap varies depending on the time of year. From March through October, the cap is 10 percent of the

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merchant's monthly sales of non-prescription drugs. From November through February, the cap increases to 20 percent of the merchant's monthly sales of non-prescription drugs.

In addition, there are federal and state restrictions on the amount of methamphetamine precursors that may be sold to individual customers. The federal Combat Methamphetamine Epidemic Act of 2005 (CMEA) imposes a daily sales limit of 3.6 grams per purchaser and prohibits a purchaser from buying more than nine grams during a 30 day period. In Washington, the daily sales limit is two packages with no more than three grams per package; i.e., six grams per day. A person may not possess more than 15 grams of methamphetamine precursors at a time.

Electronically Tracking Methamphetamine Precursor Sales.

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 system for real-time transmission of information.

Summary of Bill:

Restrictions on the Sale of Methamphetamine Precursors.

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 to gain access. A customer must sign a record of any transaction in which he or she purchased methamphetamine precursors. The record must contain the name and address of the purchaser, the date and time of the sale, the name and the initials of the person conducting the transaction, the name of the product sold, and the total quantity in grams of the precursors being sold.

The daily sales limit for methamphetamine precursors 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 per 30 days.

The sales cap for sellers who previously acquired methamphetamine precursors in a suspicious transaction is eliminated.

Electronically Tracking Methamphetamine Precursor Sales.

The Attorney General must implement a real-time electronic sales tracking system to monitor the non-prescription sale of products containing methamphetamine precursors. The system must be available without cost to the state or retailers. The Attorney General may enter into a public-private partnership to make the system available.

The electronic sales tracking system must contain the following elements:

- the capability to generate a stop sale alert, which is a notification that completion of the sale would result in the seller or purchaser violating the quantity limits for methamphetamine precursors; and

- an override function for use by a dispenser of methamphetamine precursors who has a reasonable fear of imminent bodily harm. Each instance in which the override function is utilized must be logged by the system.

The information in the electronic system must be available to:

- a law enforcement agency or entity authorized by the Attorney General; or
- pursuant to a subpoena issued by a grand jury or magistrate.

Beginning six months after the electronic sales tracking system is available, a seller of non-prescription methamphetamine precursors must submit the required information to the system before completing a sale. The seller may not complete the sale if the system generates a stop sale alert. If the seller is unable to use the system due to a mechanical or electronic failure, he or she must maintain a written log or alternative electronic recordkeeping mechanism until the mechanical or electronic failure is resolved.

A seller's use of the electronic sales tracking system must be without cost to the seller. Absent negligence, wantonness, recklessness, or deliberate misconduct, any seller maintaining the electronic sales tracking system is immune from civil liability for acts or omissions in carrying out the seller's duties and is immune from liability to any third party unless he or she has violated the requirements relating to the electronic sales tracking system in relation to a claim brought for such violation.

A seller may submit a written request to the Attorney General for an exemption to the electronic sales tracking system. The request must state the reasons for the exemption. The Attorney General may grant the exemption for good cause, but in no case may the exemption exceed 180 days. If the exemption is granted, the seller must maintain a logbook in hardcopy form and must require the purchaser to submit the same information prior to the completion of the sale as would be required if the seller was participating in the tracking system. The logbook must be available for inspection by law enforcement or the Board of Pharmacy during normal business hours.

Appropriation: None.

Fiscal Note: Requested 1/20/2010.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.