

# FINAL BILL REPORT

## ESSB 6478

---

---

### C 52 L 04

#### Synopsis as Enacted

**Brief Description:** Increasing the regulation of the sale of ephedrine, pseudoephedrine, and phenylpropanolamine.

**Sponsors:** Senate Committee on Health & Long-Term Care (originally sponsored by Senators Brandland, Franklin, Deccio, Rasmussen, McCaslin, Murray, B. Sheldon, Parlette, Winsley and Regala; by request of Department of Health and Washington State Patrol).

#### **Senate Committee on Health & Long-Term Care** **House Committee on Criminal Justice & Corrections**

**Background:** Precursor drugs are substances that can be used to manufacture controlled substances. Ephedrine, pseudoephedrine, and phenylpropanolamine are precursor substances used in manufacturing methamphetamine.

In 2001, legislation was enacted restricting the sale and distribution of ephedrine, pseudoephedrine, and phenylpropanolamine. It is a gross misdemeanor to sell at retail more than three packages of products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or a single package containing more than three grams in a single transaction. Retailers of products containing ephedrine compounds may take either of two measures to prevent their unlawful sale and purchase: (1) they may program their registers to alert sales persons of potential violations, or (2) they may place signs on the premises to notify customers of the law.

Manufacturers and wholesalers are required to report suspicious transactions in precursor drugs to the Board of Pharmacy. "Suspicious transactions" are sales under circumstances leading a reasonable person to believe the substance is likely to be used for making a controlled substance, or for more than \$200 in cash. The Board of Pharmacy was authorized to establish criteria in rule for determining whether a transaction is suspicious, and the board has adopted such rules.

**Summary:** Shopkeepers, who are not licensed pharmacies, and itinerant vendors may purchase ephedrine, pseudoephedrine, or phenylpropanolamine only from wholesalers or manufacturers licensed by the Department of Health. A shopkeeper or itinerant vendor who violates this must be warned by the Board of Pharmacy. If the shopkeeper or itinerant vendor commits a subsequent violation, the Board of Pharmacy may suspend or revoke their registration.

Shopkeepers and itinerant vendors who purchase ephedrine products in a suspicious transaction are subject to percentage-of-sales and record-keeping requirements. Such shopkeepers and itinerant vendors may not sell any quantity of ephedrine products if the total prior monthly sales of these products exceed 10 percent of the shopkeeper's or itinerant vendor's total monthly sales of nonprescription drugs in March through October, or 20 percent

from November through February. The board may suspend or revoke the license of a shopkeeper or itinerant vendor who violates this limitation. Such shopkeepers and itinerant vendors must also maintain inventory records of the receipt and disposition of nonprescription drugs. Records must be available for inspection by the board or any law enforcement agency and must be maintained for two years. The board may suspend or revoke the shopkeeper's or itinerant vendor's registration for violating this record requirement.

No wholesalers may sell any quantity of ephedrine products if the total prior monthly sales of these products to persons in Washington exceeds 5 percent of the wholesaler's total prior monthly sales of nonprescription drugs to persons in Washington in March through October. This limit is 10 percent for November through February. The board may suspend or revoke the license of a wholesaler that violates this limitation. The board may exempt a wholesaler from this limitation if the wholesaler is related by common ownership to the retailer and neither the wholesaler nor the retailer has a history of suspicious transactions in precursor drugs.

Wholesalers located in Washington and outside of Washington who sell both legend drugs and nonprescription drugs, and those who sell only nonprescription drugs to pharmacies, practitioners, and shopkeepers in Washington must be licensed by the Department of Health. Wholesalers are prohibited from selling any quantity of ephedrine products to any person in Washington other than a licensed pharmacy, shopkeeper or itinerant vendor registered in Washington, or a practitioner. A violation of this prohibition is punishable as a class C felony.

It is unlawful for any person to sell or distribute ephedrine products unless the person is licensed or registered by the Department of Health under the statute concerning pharmacists or is a practitioner as defined in statute.

Practitioners authorized to prescribe drugs may sell, transfer or otherwise furnish ephedrine products as long as a single transaction does not exceed the three package, three gram limitation.

The Board of Pharmacy must transmit to the Department of Revenue a copy of each report of a suspicious transaction that it receives.

The Board of Pharmacy may exempt specific ephedrine products from the sales restriction, upon application of a manufacturer, if the product meets the federal definition of an ordinary over-the-counter pseudoephedrine product, and the net weight of the pseudoephedrine base is equal to or less than three grams, even though the package's total weight exceeds three grams. For the exemption to apply, the board must determine that the value of the product to the people of Washington outweighs the danger, and the product, as packaged, has not been used in the illegal manufacture of methamphetamine.

**Votes on Final Passage:**

Senate	45	0
House	95	0

**Effective:** July 1, 2004