

**HB 2303 A STAFF MEASURE SUMMARY****Carrier:** Rep. Post, Rep. Hayden**House Committee On Health Care****Action Date:** 04/02/19**Action:** Do pass with amendments. (Printed A-Eng.)**Vote:** 9-1-1-0**Yeas:** 9 - Boles, Drazan, Greenlick, Hayden, Mitchell, Noble, Nosse, Prusak, Salinas**Nays:** 1 - Alonso Leon**Exc:** 1 - Keny-Guyer**Fiscal:** Has minimal fiscal impact**Revenue:** No revenue impact**Prepared By:** Oliver Droppers, LPRO Analyst**Meeting Dates:** 3/7, 4/2**WHAT THE MEASURE DOES:**

Authorizes a pharmacist or pharmacy technician to transfer a drug containing pseudoephedrine, ephedrine, or a salt, isomer, or salt of isomer of pseudoephedrine or ephedrine without a prescription to an individual 18 years of age or older with a valid government-issued photo identification. Mandates that pseudoephedrine or ephedrine-containing products must be stored behind pharmacy counter that is closed to the public. Prior to transfer, requires a pharmacist or pharmacy technician to verify specific information in an electronic monitoring system. Requires log to be retained at the pharmacy for at least two years from date of transaction. Allows law enforcement to obtain information contained in log through a subpoena accepted by the State Board of Pharmacy (Board). Requires Board to accept a lawfully issued subpoena. Specifies requirements for the electronic tracking system. Specifies violation is a Class A misdemeanor.

**ISSUES DISCUSSED:**

- Reasonable access to pseudoephedrine; a prescription is currently required compared to accessing it behind or over the counter (OTC) at pharmacies without a prescription
- History of methamphetamine epidemic in the 2000s; Oregon legislative history including 2001, 2003, and 2005
- Decline in domestic methamphetamine production; current potency and purity of methamphetamine in Oregon
- Decriminalization of pseudoephedrine, changing its classification from a controlled substance to a non-controlled substance
- National and state-level tracking of pseudoephedrine via the National Precursor Log Exchange NPLeX system
- Access to the NPLeX by law enforcement
- Protected health information, personal privacy, data authentication, and encryption of the NPLeX
- Differences between a subpoena and warrant for law enforcement to access information
- Oregon Prescription Drug Monitoring Program; accessibility for pharmacists
- Proposed amendments including sunset key provisions and being able to still access pseudoephedrine with a prescription as a non-controlled substance

**EFFECT OF AMENDMENT:**

Replaces the measure.

**BACKGROUND:**

In July 2005, Oregon became the first state to require a prescription for products containing pseudoephedrine and ephedrine, such as cold and allergy medications as the law (House Bill 2845) reclassified cold medications pseudoephedrine as Schedule III controlled substances. The law was in response to the increase in the production, distribution, and use of methamphetamine in Oregon, which can be produced using pseudoephedrine.

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In 2005, Congress passed the Combat Methamphetamine Epidemic Act (CMEA) (Public Law 109-177). The federal legislation implemented new pseudoephedrine sales restrictions: (1) requiring pharmacies to place products containing pseudoephedrine behind counters or in locked cabinets to prevent unsupervised access; (2) amending existing federal law to set a daily sales limit of 3.6 grams of pseudoephedrine per customer and a monthly limit of 9 grams per customer; and (3) requiring pharmacies to maintain a logbook recording all sales of pseudoephedrine products and the verified identity of purchasers (Government Accountability Office, 2013).

As of 2017, more than 30 states have implemented a system to electronically track "OTC sales of medications containing meth precursors" by using the National Precursor Log Exchange (NPLEx), an electronic logging system used by pharmacies and law enforcement. Oregon does not currently use NPLEx as dispensing pseudoephedrine requires a prescription from a health professional.

House Bill 2303-A allows Oregon pharmacies to dispense pseudoephedrine without a prescription if the pharmacy uses an electronic tracking system and the individual provides valid identification.