

**A-Engrossed**  
**House Bill 2303**

Ordered by the House April 9  
Including House Amendments dated April 9

Sponsored by Representatives POST, HAYDEN; Representatives BOSHART DAVIS, KENY-GUYER, LIVELY, NOBLE, PRUSAK, RESCHKE, Senators DEMBROW, ROBLAN, STEINER HAYWARD (Presession filed.)

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

*[Deletes requirement that pseudoephedrine be classified as Schedule III controlled substance.]*

*[Directs State Board of Pharmacy to adopt rules for dispensing of pseudoephedrine. Requires rules to be consistent with provisions of federal Controlled Substances Act that are related to dispensing of pseudoephedrine and federal regulations that implement those provisions. Punishes violation of rules by five years' imprisonment, \$125,000 fine, or both.]*

**Allows pharmacist or pharmacy technician to transfer drug containing pseudoephedrine without prescription to person who is at least 18 years of age and presents person's valid government-issued photo identification. Requires pharmacist or pharmacy technician, prior to transfer, to submit specified information into electronic system designed to prevent illegal transfer of drugs containing pseudoephedrine. Requires pharmacist or pharmacy technician to record specified information about transfer of drug containing pseudoephedrine. Specifies maximum amount of pseudoephedrine that person may receive without prescription. Establishes storage requirements for drug containing pseudoephedrine. Clarifies that measure does not apply to drugs transferred pursuant to prescription. Punishes violation by 364 days' imprisonment, \$6,250 fine, or both.**

Becomes operative January 1, 2020.

**Sunset December 31, 2023.**

Takes effect on 91st day following adjournment sine die.

**A BILL FOR AN ACT**

1  
2 Relating to pseudoephedrine; creating new provisions; amending ORS 475.950; and prescribing an  
3 effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS 475.005 to**  
6 **475.285.**

7 **SECTION 2. (1) As used in this section, "pharmacist," "pharmacy" and "pharmacy technician"**  
8 **have the meanings given those terms in ORS 689.005.**

9 **(2) A pharmacist or pharmacy technician may transfer a drug containing**  
10 **pseudoephedrine or ephedrine or a salt, isomer or salt of an isomer of pseudoephedrine or**  
11 **ephedrine without a prescription from a practitioner to a person who is 18 years of age or**  
12 **older and who provides to the pharmacist or pharmacy technician the person's valid**  
13 **government-issued photo identification.**

14 **(3) Prior to the transfer of a drug described in subsection (2) of this section, a pharmacist**  
15 **or pharmacy technician shall submit the following information to the electronic system de-**  
16 **scribed in subsection (6) of this section:**

17 **(a) The date and time of the transfer;**

18 **(b) The name, address and date of birth of the person to whom the transfer will be made;**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (c) The form of government-issued photo identification and identification number of the  
2 person to whom the transfer will be made;

3 (d) The name of the government agency that issued the photo identification; and

4 (e) The name of the drug that will be transferred and the amount of pseudoephedrine or  
5 ephedrine or a salt, isomer or salt of an isomer of pseudoephedrine or ephedrine, specified  
6 in grams, to be transferred.

7 (4) If, after receiving the information submitted under subsection (3) of this section, the  
8 electronic system generates an alert to not proceed with the transfer, the pharmacist or  
9 pharmacy technician may not transfer the drug described in subsection (2) of this section  
10 to the person, except as provided in subsection (6) of this section.

11 (5)(a) Upon transferring a drug described in subsection (2) of this section, the pharmacist  
12 or pharmacy technician shall require the person to whom the drug is transferred to sign an  
13 electronic or written log that shows the date of the transfer, the name of the person to  
14 whom the transfer is made and the amount transferred of pseudoephedrine or ephedrine or  
15 a salt, isomer or salt of an isomer of pseudoephedrine or ephedrine, specified in grams.

16 (b) The log described in this subsection must be retained at the pharmacy where the  
17 transfer was made for at least two years from the date of the transaction.

18 (c) A law enforcement agency may obtain information contained in a log described in this  
19 subsection through a lawfully issued subpoena accepted by the State Board of Pharmacy. The  
20 board shall accept a lawfully issued subpoena under this paragraph, and shall adopt rules to  
21 carry out this paragraph. The board may designate a third party vendor as the custodian of  
22 records, including of a log described in this subsection.

23 (6)(a) For purposes of tracking the transfer of drugs described in subsection (2) of this  
24 section, a pharmacy shall use an electronic system designed to prevent illegal transfer of  
25 drugs described in subsection (2) of this section. The electronic system must:

26 (A) Be capable of tracking transfers nationwide in real time;

27 (B) Be capable of generating an alert described in subsection (4) of this section;

28 (C) Allow a pharmacist to override an alert described in subsection (4) of this section if,  
29 in the discretion of the pharmacist, the transfer is necessary to protect the person to whom  
30 the transfer will be made from imminent bodily harm;

31 (D) Be able to communicate in real time with similar systems operated in other states  
32 and the District of Columbia, including with similar systems that contain information sub-  
33 mitted by more than one state;

34 (E) For each transfer, allow for the recording of:

35 (i) The information described in subsection (3) of this section;

36 (ii) The number of packages of the drug transferred;

37 (iii) The total amount of pseudoephedrine or ephedrine or a salt, isomer or salt of an  
38 isomer of pseudoephedrine or ephedrine transferred, specified in grams;

39 (iv) The name of the drug transferred;

40 (v) Either the signature of the person to whom the drug is transferred or a unique  
41 number connecting the transfer transaction to an electronic or written log described in  
42 subsection (5) of this section; and

43 (vi) The name or initials of the pharmacist or pharmacy technician who transferred the  
44 drug;

45 (F) Be free of charge to a pharmacy;

1 (G) Be accessible at no charge to law enforcement and to other authorized personnel, as  
2 determined by the board, through an online portal or at the pharmacy;

3 (H) Retain information submitted for at least two years from the date of transaction; and

4 (I) Be accompanied by training, 24-hour online support and a toll-free support telephone  
5 hotline.

6 (b) A pharmacist who uses the override function described in this subsection shall record  
7 in the electronic system the use of the override.

8 (7) A drug described in subsection (2) of this section must be:

9 (a) Transferred from behind a pharmacy counter; and

10 (b) Stored behind the pharmacy counter in an area that is closed to the public.

11 (8) A person, other than a pharmacy, may not receive more than 3.6 grams per transfer,  
12 or more than nine grams in a 30-day period, of pseudoephedrine or ephedrine or a salt,  
13 isomer or salt of an isomer of pseudoephedrine or ephedrine.

14 (9) This section does not apply to a drug that contains pseudoephedrine or ephedrine or  
15 a salt, isomer or salt of an isomer of pseudoephedrine or ephedrine when the drug is trans-  
16 ferred pursuant to a prescription.

17 (10) In addition to rules adopted under subsection (5) of this section, the board may adopt  
18 other rules as necessary to carry out this section.

19 (11) Violation of this section, or a rule adopted pursuant to this section, is a Class A  
20 misdemeanor.

21 **SECTION 3.** ORS 475.950 is amended to read:

22 475.950. (1) A person commits the offense of failure to report a precursor substances transaction  
23 if the person does any of the following:

24 (a) Sells, transfers or otherwise furnishes any precursor substance described in ORS 475.940  
25 (3)(a) to (hh) and (oo) and does not, at least three days before delivery of the substance, submit to  
26 the Department of State Police a report that meets the reporting requirements established by rule  
27 under ORS 475.945.

28 (b) Receives any precursor substance described in ORS 475.940 (3)(a) to (hh) and (oo) and does  
29 not, within 10 days after receipt of the substance, submit to the [*Department of State Police*] **de-**  
30 **partment** a report that meets the reporting requirements established by rule under ORS 475.945.

31 (2) This section does not apply to any of the following:

32 (a) Any pharmacist or other authorized person who sells or furnishes a precursor substance  
33 upon the prescription of a physician licensed under ORS chapter 677, physician assistant licensed  
34 under ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390,  
35 naturopathic physician licensed under ORS chapter 685, dentist or veterinarian.

36 (b) Any practitioner, as defined in ORS 475.005, who administers or furnishes a precursor sub-  
37 stance to patients upon prescription.

38 (c) Any person licensed by the State Board of Pharmacy who sells, transfers or otherwise fur-  
39 nishes a precursor substance to a licensed pharmacy, physician licensed under ORS chapter 677,  
40 physician assistant licensed under ORS 677.505 to 677.525, nurse practitioner licensed under ORS  
41 678.375 to 678.390, naturopathic physician licensed under ORS chapter 685, dentist or veterinarian  
42 for distribution to patients upon prescription.

43 (d) Any person who is authorized by rule under ORS 475.945 to report in an alternate manner  
44 if the person complies with the alternate reporting requirements.

45 (e) Any patient of a practitioner, as defined in ORS 475.005, who obtains a precursor substance

1 from a licensed pharmacist, physician licensed under ORS chapter 677, physician assistant licensed  
2 under ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390,  
3 naturopathic physician licensed under ORS chapter 685, dentist or veterinarian pursuant to a pre-  
4 scription.

5 (f) Any person who sells or transfers ephedrine, pseudoephedrine or phenylpropanolamine in  
6 compliance with ORS 475.973 **or section 2 of this 2019 Act.**

7 (g) Any practitioner, as defined in ORS 475.005, who dispenses a precursor substance to a person  
8 with whom the practitioner has a professional relationship.

9 (h) Any person who obtains a precursor substance from a practitioner, as defined in ORS  
10 475.005, with whom the person has a professional relationship.

11 (i) Any person who sells or transfers an isomer of a precursor substance, unless it is an optical  
12 isomer.

13 (3) Penalties related to providing false information on a report required under this section are  
14 provided under ORS 475.965.

15 (4) The Department of State Police and any law enforcement agency may inspect and remove  
16 copies of the sales records of any retail or wholesale distributor of methyl sulfonyl methane or a  
17 precursor substance during the normal business hours of the retail or wholesale distributor or may  
18 require the retail or wholesale distributor to provide copies of the records.

19 (5) Failure to report a precursor substances transaction is a Class A misdemeanor.

20 **SECTION 4.** ORS 475.950, as amended by section 3 of this 2019 Act, is amended to read:

21 475.950. (1) A person commits the offense of failure to report a precursor substances transaction  
22 if the person does any of the following:

23 (a) Sells, transfers or otherwise furnishes any precursor substance described in ORS 475.940  
24 (3)(a) to (hh) and (oo) and does not, at least three days before delivery of the substance, submit to  
25 the Department of State Police a report that meets the reporting requirements established by rule  
26 under ORS 475.945.

27 (b) Receives any precursor substance described in ORS 475.940 (3)(a) to (hh) and (oo) and does  
28 not, within 10 days after receipt of the substance, submit to the department a report that meets the  
29 reporting requirements established by rule under ORS 475.945.

30 (2) This section does not apply to any of the following:

31 (a) Any pharmacist or other authorized person who sells or furnishes a precursor substance  
32 upon the prescription of a physician licensed under ORS chapter 677, physician assistant licensed  
33 under ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390,  
34 naturopathic physician licensed under ORS chapter 685, dentist or veterinarian.

35 (b) Any practitioner, as defined in ORS 475.005, who administers or furnishes a precursor sub-  
36 stance to patients upon prescription.

37 (c) Any person licensed by the State Board of Pharmacy who sells, transfers or otherwise fur-  
38 nishes a precursor substance to a licensed pharmacy, physician licensed under ORS chapter 677,  
39 physician assistant licensed under ORS 677.505 to 677.525, nurse practitioner licensed under ORS  
40 678.375 to 678.390, naturopathic physician licensed under ORS chapter 685, dentist or veterinarian  
41 for distribution to patients upon prescription.

42 (d) Any person who is authorized by rule under ORS 475.945 to report in an alternate manner  
43 if the person complies with the alternate reporting requirements.

44 (e) Any patient of a practitioner, as defined in ORS 475.005, who obtains a precursor substance  
45 from a licensed pharmacist, physician licensed under ORS chapter 677, physician assistant licensed

1 under ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390,  
2 naturopathic physician licensed under ORS chapter 685, dentist or veterinarian pursuant to a pre-  
3 scription.

4 (f) Any person who sells or transfers ephedrine, pseudoephedrine or phenylpropanolamine in  
5 compliance with ORS 475.973 *[or section 2 of this 2019 Act]*.

6 (g) Any practitioner, as defined in ORS 475.005, who dispenses a precursor substance to a person  
7 with whom the practitioner has a professional relationship.

8 (h) Any person who obtains a precursor substance from a practitioner, as defined in ORS  
9 475.005, with whom the person has a professional relationship.

10 (i) Any person who sells or transfers an isomer of a precursor substance, unless it is an optical  
11 isomer.

12 (3) Penalties related to providing false information on a report required under this section are  
13 provided under ORS 475.965.

14 (4) The Department of State Police and any law enforcement agency may inspect and remove  
15 copies of the sales records of any retail or wholesale distributor of methyl sulfonyl methane or a  
16 precursor substance during the normal business hours of the retail or wholesale distributor or may  
17 require the retail or wholesale distributor to provide copies of the records.

18 (5) Failure to report a precursor substances transaction is a Class A misdemeanor.

19 **SECTION 5. Section 2 of this 2019 Act and the amendments to ORS 475.950 by section 3**  
20 **of this 2019 Act apply to conduct occurring on and after the operative date specified in sec-**  
21 **tion 7 of this 2019 Act.**

22 **SECTION 6. Section 2 of this 2019 Act is repealed on December 31, 2023.**

23 **SECTION 7. (1) Section 2 of this 2019 Act and the amendments to ORS 475.950 by section**  
24 **3 of this 2019 Act become operative on January 1, 2020.**

25 **(2) The amendments to ORS 475.950 by section 4 of this 2019 Act become operative on**  
26 **January 1, 2024.**

27 **(3) The State Board of Pharmacy may take any action before the operative date specified**  
28 **in subsection (1) of this section that is necessary to enable the board to exercise, on and**  
29 **after the operative date specified in subsection (1) of this section, all of the duties, functions**  
30 **and powers conferred on the board by section 2 of this 2019 Act and the amendments to ORS**  
31 **475.950 by section 3 of this 2019 Act.**

32 **SECTION 8. This 2019 Act takes effect on the 91st day after the date on which the 2019**  
33 **regular session of the Eightieth Legislative Assembly adjourns sine die.**

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