

February 16, 2021

**Testimony of Rob Bovett
before the House Health Care Committee
in Opposition to House Bill 2648 as written
and in support of amendments**

Dear Chair Prusak and Members of the Committee,

House Bill 2648 is essentially the same as [2019 HB 2303A](#). AOC **opposes** legislation to make pseudoephedrine a non-prescription drug. However, AOC **supports** legislation to expand access to pseudoephedrine by permitting pharmacists to prescribe the drug, thus removing the requirement to see a doctor for that prescription. Hence we supported [2019 HB 2303B](#) and would support amending House Bill 2648 in a similar fashion, as well as support [House Bill 2391](#).

The current situation is essentially the same as it was two years ago when we successfully amended [2019 HB 2303](#) to reflect a better way to expand consumer access to pseudoephedrine. I've attached a copy of my presentation slides from back then, which outlines the details.

Here is the bottom line: ***Do you believe that the federal government, most notably the US State Department, will again be able to achieve effective control of methamphetamine precursors flowing from China and India to Mexico as they have done a number of times in the past?***

If you believe that won't happen again, then you can safely support returning pseudoephedrine to a non-prescription drug with the proposed tracking system. However, if you feel otherwise, pseudoephedrine must remain a prescription drug to prevent a resurgence of local toxic meth labs in Oregon. It really is that simple.

For my part, having been directly involved with the control of methamphetamine precursors at local, state, national, and international levels, I believe that the federal government will once again achieve effective controls on meth precursors flowing to Mexico, which will once again result in demand for locally produced meth due to degraded purity, potency, price, and/or poundage of meth from the Mexico-based drug trafficking organizations (DTOs). For all of the reasons outlined in my attached 2019 presentation, please oppose the bill as written, and amend it to mirror [2019 HB 2303B](#).

Sincerely,




Rob Bovett
Legal Counsel and Legislative Director
Association of Oregon Counties


UNITED COUNTIES. UNITED OREGON.

1201 Court St., Suite 300 | Salem, OR 97301-4110 | 503.585.8351 | www.oregoncounties.org

AOC
Association of
Oregon Counties



**lines
for
life**
Preventing Substance
Abuse & Suicide



LOC
League of Oregon Cities


Expanding Consumer Access to Pseudoephedrine: A Better Answer

Oregon Senate Judiciary Committee
Wednesday, May 8, 2019

Rob Bovett
AOC Legal Counsel

1

Meth and Meth Labs



Drug raid

AOC Association of
Oregon Counties

2

Meth Lab Dangers

- Extreme risk of fire and explosion
- Toxic byproducts
- Exposures and injuries to drug endangered children
- Injuries to law enforcement and first responders
- Environmental damage
- Property damage



AOC Association of Oregon Counties

3



The Conditions – The Four Ps

- The demand for local toxic meth labs only occurs when the conditions are right
- The conditions (the “Four Ps” of meth):
 - 1. **Purity:** Percentage of meth compared to diluents/impurities
 - 2. **Potency:** Percentage of d-meth compared to l-meth
 - 3. **Price:** The average cost of meth on the street
 - 4. **Poundage:** The volume of supply of meth on the street

AOC Association of Oregon Counties

4

The Conditions – Examples

- **Example 1:**
 - DTO meth is pure, potent, readily available, and cheap
- 
- Low demand for meth labs
- **Example 2:**
 - DTO meth lacks strong purity or potency, is not plentiful, or is expensive
- 
- High demand for local toxic meth labs

5

The Conditions Fluctuate Over Time

- **1994** **81% average purity**
- **1996** **40% average purity**
- **2005** **71% average purity**
- **Early 2006** **38% average purity**
- **Late 2006** **59% average purity**
- **2007** **39% average purity**
- **2008-2012** **Purity and potency both down**
- **2012-present** **Purity and potency both up**
(although lagging in the Midwest)







6

Pseudoephedrine



- The key ingredient for local toxic meth labs . . .

PSEUDOEPHEDRINE COUGH & COLD MEDICINES 2010 PRODUCT AND MANUFACTURERS LIST








The following is a list of over the counter (OTC) medications that contain pseudoephedrine.

MANUFACTURER	MEDICINE	SINGLE ENTITY VS. COMBINATION
Redditt Benckiser	 Mucinex® D	Combination
Bayer	 Aleve® D	Combination
Johnson & Johnson - McNeil	 Sudafed® D	Single Entity
	 Tylenol® Cold Severe Congestion	Combination
	 Tylenol® Sinus Severe Congestion	Combination
	 Zyrtec® D	Combination

Private Label

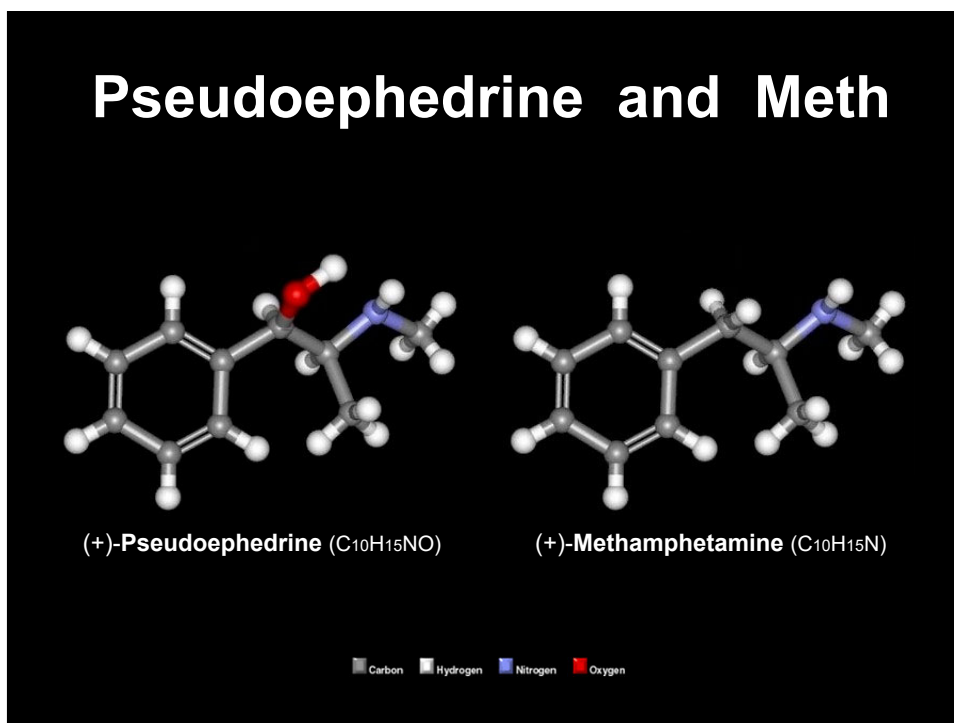
 Claritin® D	Combination
 Drixoral® D	Combination

Pfizer

 Advil® Cold & Sinus Liqui-Gels®	 Alavert® D-12 Extended Release Tablets	All products Combination
 Advil® Cold & Sinus Caplets	 Robitussin® Cough & Cold D	
 Advil® Allergy Sinus Caplets	 Primatene® Tablets (Note: contains ephedrine - subject to PSE ETC requirement)	
 Children's Advil® Cold Suspension		

AOC Association of Oregon Counties

7



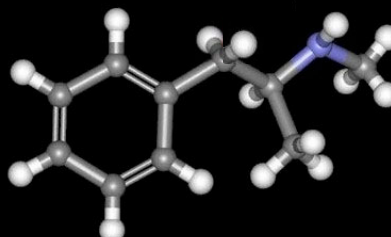
8

A meth lab:

Start with pseudo/ephedrine

Remove the hydroxyl group

Add back hydrogen



(+)-Methamphetamine (C₁₀H₁₅N)

Carbon Hydrogen Nitrogen Oxygen

9

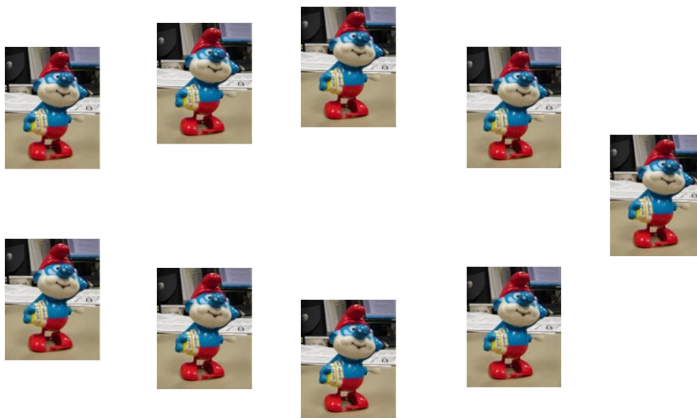
Oregon Pseudoephedrine Controls

- [2001 House Bill 3661](#) (2001 Oregon Laws, chapter 615)
 - First sales and possession limits
- [2003 House Bill 2034](#) (2003 Oregon Laws, chapter 448)
 - Modifications
- **2004 Governor's Meth Task Force**
 - Oregon Pharmacy Board adopts full "Oklahoma model" with logging, tracking, and unfettered law enforcement inspection of logs
 - OSP DES collects and analyzes logs

10

Oregon Pseudoephedrine Controls

- The result?



AOC Association of Oregon Counties

11

Oregon Pseudoephedrine Controls

- [2005 House Bill 2485](#) (2005 Oregon Laws, chapter 706)
 - Returned pseudoephedrine to a prescription drug, as it was prior to 1976



FAITH CATHCART/THE OREGONIAN
State Sen. Ginny Burdick of Portland (left), Rep. Wayne Krieger of Gold Beach (center) and Sen. Roger Beyer of Molalla (right) joined with Rep. Greg Macpherson (not in picture) of Lake Oswego to show how easy it is for meth cooks to obtain enough cold medicine to manufacture the illicit drug.

AOC Association of Oregon Counties

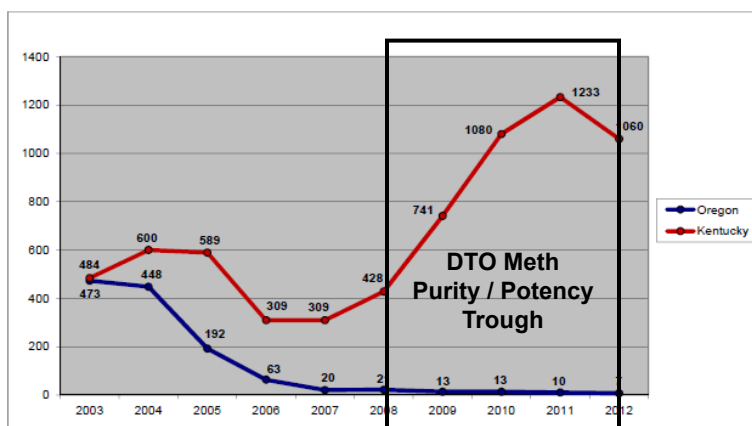
12

A Tale of Two States

- **2008 to 2012**
 - The last nationwide trough in the Four P's
- **A tale of two states**
 - **Oregon**
 - The first state to return PSE to Rx (2006)
 - **Kentucky**
 - The first state to implement NPLeX (2008)

13

Oregon and Kentucky Compared



Oregon and Kentucky meth lab incidents

14

Oregon and Kentucky Compared

- **Oregon**
 - **Eliminated smurfing**
 - Not a single case of diverted prescription pseudoephedrine to a meth lab
 - **Virtually eliminated local toxic meth labs**
 - Even when the conditions were primed for them
 - As an aside: With a double whammy of weak DTO meth, and an inability to cook meth locally, overall Oregon meth epidemic numbers [dropped](#) as well
- **Kentucky**
 - **Smurfing and local toxic meth lab incidents skyrocket**

AOC Association of Oregon Counties

15

Kentucky

Lexington Herald-Leader

Meth labs back on the rise in Kentucky Toddler's death brought attention to increase

Monday, June 8, 2009
By Bill Estep, Herald-Leader

The number of illegal methamphetamine labs destroyed in Kentucky has increased in the last 18 months as meth "cookers" have found ways around efforts to limit production of the dangerous, highly addictive drug.

A 2005 change in state law to restrict access to a key ingredient needed to produce meth drove down the number of makeshift labs police found, but only for a while.

The May 30 death of a 22-month-old Wayne County boy who drank drain cleaner his parents allegedly were using to make meth grabbed local and national headlines at a time when the number of labs is going up.



Kayden Branham, 22 months old, died Saturday night after ingesting a drain cleaner used in cooking meth. He was about a year old in this photo.

AOC Association of Oregon Counties

16

Kentucky

THE RICHMOND REGISTER

**Federal officials:
Kentucky third in nation for reports of meth labs**

Thursday, August 13, 2009
By Brian Smith, Register News Writer

LONDON — Representatives of state and federal law enforcement agencies gathered with media members in an airplane hangar Wednesday morning to discuss the rise in methamphetamine production.

The "Meth Awareness 2009" conference was co-sponsored by the U.S. attorney's office for the Eastern District of Kentucky, the Kentucky State Police, the federal Drug Enforcement Administration and Appalachian HIDTA (High Intensity Drug Trafficking Areas).

A major focus of the conference was the rise in what law enforcement officers have termed "smurfing," or the practice of methamphetamine cooks using multiple people to purchase pseudoephedrine, a key component of the drug.

Kentucky state law limits individuals to a maximum purchase of nine grams of the substance in a 30-day period, and all purchases of the drug, a common ingredient in cold medicines, are recorded in an electronic database that collects signatures and addresses.

AOC Association of Oregon Counties

17

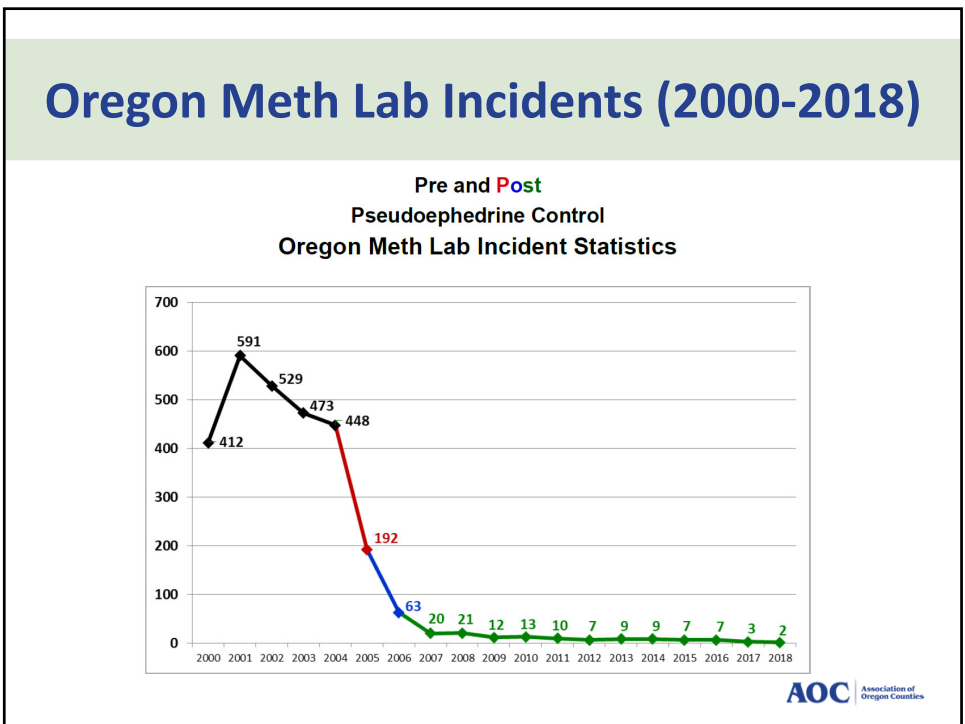
A Little Closer to Home . . .

Year	Oregon	Washington
2008	21	184
2009	13	186
2010	13	95
2011	10	46
2012	7	84

Oregon and Washington Meth Lab Incidents during the last Nationwide DTO meth purity / potency trough (2008-2012)

AOC Association of Oregon Counties

18



19

As an aside . . .

The Sunday Oregonian

EDITORIAL

Sunday, September 20, 2009

Fighting meth drives down crime rate

There are plenty of reasons for Oregon's improvement, but one stands out

You don't have to dig very deep to discover the big secret behind the steep drop in property crimes in Oregon, reported in the FBI's annual release of crime statistics last week.

The FBI reports of local crime records showed that violent crime here decreased by 10.6 percent and property crimes declined by 6.9 percent in 2008 compared with 2007.

There is all kind of speculation about the cause of these declines, and much of it probably has some basis in reality. But these excellent numbers are most likely chiefly the result of Oregon's unique-in-the-nation law that requires prescriptions in order to obtain drugs that contain pseudoephedrine, the main ingredient in illegal methamphetamine.

AOC Association of Oregon Counties

20

NMPI Advisory Board

- **“Law Enforcement does not want to arrest more smurfers or find more methamphetamine labs. Law Enforcement wants to eliminate smurfing and prevent methamphetamine labs.”**

- NMPI position paper (October 2009)



AOC Association of Oregon Counties

21

Please Oppose HB 2303A

- **We should never return to the time when Oregon law enforcement officers regularly had to put on chemical suits and self-contained breathing apparatus to intervene in local toxic meth labs within the reach of drug endangered children**



AOC Association of Oregon Counties

22

Privacy Protections

- **HB 2303A also will weaken privacy protections**
 - **The Oregon PDMP has arguably the strongest personal privacy protections of any PDMP in the entire United States**
 - **HB 2303A offers just the opposite: Unfettered online law enforcement access to NPLeX per 21 CFR § 1314.45, ORS 475.973(1)(b), and HB 2303A § 2(6)(a)(G)**

23

A Better Answer – Dash-A10

- **HB 2303 – a better answer for expanding PSE access:**
 - **Make PSE a formulary drug**
 - **Any pharmacist can prescribe and dispense**



24