



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-3133/1
MLJ:klm&kjf

2017 SENATE BILL 237

May 11, 2017 - Introduced by Senators HARSDORF, COWLES, MOULTON, OLSEN, PETROWSKI, RINGHAND, STROEBEL and WANGGAARD, cosponsored by Representatives HORLACHER, BERNIER, ALLEN, BILLINGS, EDMING, HUTTON, JACQUE, KATZMA, KREMER, MURSAU, NOVAK, NYGREN, OTT, PETRYK, RIPP, SINICKI, SKOWRONSKI, SPIROS and TITTL. Referred to Committee on Health and Human Services.

1 **AN ACT to renumber and amend** 961.23 (4), 961.235 (1) and 961.235 (3); **to**
2 **amend** 961.235 (2); and **to create** 961.23 (4) (b), 961.235 (1) (b) and (c) and
3 961.235 (3m), (4), (5), (7) and (8) of the statutes; **relating to:** tracking the sale
4 of pseudoephedrine products.

Analysis by the Legislative Reference Bureau

This bill requires the implementation of an electronic system for recording, tracking, and blocking the illegal sale of pseudoephedrine products and makes certain other changes to the pseudoephedrine sale process.

Current law requires that sellers of pseudoephedrine products record the name and address of the purchaser and the name and quantity of the pseudoephedrine product being sold in either paper or electronic format, and requires the purchaser to present an identification card containing the purchaser's photograph. At the time of sale, both the seller, or a pharmacist supervising the seller, and the purchaser must also sign a record of the transaction. Under the bill, the purchaser must present a valid, government-issued photo identification and the seller must record the identification type and number and the date and time of the sale in addition to the information that is currently gathered, and all records must be kept in electronic format.

Under the bill, prior to completing a pseudoephedrine sale, the seller must electronically submit the sale information to the National Precursor Log Exchange, which is a real-time electronic tracking system that is available at no cost to the sellers. The system uses the information to generate a real-time notification, called

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a stop sale alert, that notifies the seller if completing the sale would cause the purchaser to be in violation of the quantity limits currently in place on nonprescription pseudoephedrine purchases. The system will contain an override function that the seller may use in emergencies, the use of which is recorded by the system. The system must forward the pseudoephedrine sale information to the Department of Justice on a weekly basis and must provide real-time access to the system for law enforcement purposes. The tracking requirements do not apply to pseudoephedrine sales pursuant to a valid prescription.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 961.23 (4) of the statutes is renumbered 961.23 (4) (a) and amended
2 to read:

3 961.23 (4) (a) Any person purchasing such a substance that is not a
4 pseudoephedrine product shall, at the time of purchase, present to the seller that
5 person's correct name, and address, ~~and, if the person is purchasing a~~
6 ~~pseudoephedrine product, an identification card containing the person's photograph.~~
7 The seller shall record the name and address and the name and quantity of the
8 product sold. The purchaser and ~~either the seller or, if the substance is a~~
9 ~~pseudoephedrine product and is being sold by a person who is not a registered~~
10 ~~pharmacist, the pharmacist supervising the seller shall sign the record of this the~~
11 transaction. The giving of a false name or false address by the purchaser shall be
12 prima facie evidence of a violation of s. 961.43 (1) (a).

13 **SECTION 2.** 961.23 (4) (b) of the statutes is created to read:

14 961.23 (4) (b) Any person purchasing such a substance that is a
15 pseudoephedrine product shall, at the time of purchase, present to the seller that
16 person's correct name, address, and an identification card containing the person's
17 photograph. The seller shall record the name, date of birth, and address of the
18 purchaser; the name and quantity measured in grams of pseudoephedrine contained

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1 in the product purchased; the date and time purchased; and the purchaser
2 identification type and number, such as driver's license state and number. The
3 purchaser and either the seller or, if the pseudoephedrine product is being sold by a
4 person who is not a registered pharmacist, the pharmacist supervising the seller
5 shall sign the record of the transaction. The giving of a false name or false address
6 by the purchaser shall be prima facie evidence of a violation of s. 961.43 (1) (a).

7 **SECTION 3.** 961.235 (1) of the statutes is renumbered 961.235 (1) (intro.) and
8 amended to read:

9 961.235 (1) (intro.) In this section, ~~“records;~~

10 (a) “Records of pseudoephedrine sales” means records required under s. 961.23
11 (4) (b) with respect to the sale of a pseudoephedrine product.

12 **SECTION 4.** 961.235 (1) (b) and (c) of the statutes are created to read:

13 961.235 (1) (b) “Stop sale alert” means a real-time notification to a seller of
14 pseudoephedrine products that completion of the sale would result in the purchaser
15 violating the pseudoephedrine quantity limits set forth in s. 961.23 (6).

16 (c) “System” means the National Precursor Log Exchange (NPLEx) system,
17 which is an electronic pseudoephedrine sales tracking system that is capable of
18 generating stop sale alerts, and that is installed, operated, and maintained free of
19 any one-time or recurring charge to the seller or to the state.

20 **SECTION 5.** 961.235 (2) of the statutes is amended to read:

21 961.235 (2) Records of pseudoephedrine sales ~~may~~ shall be kept in ~~either a~~
22 ~~paper or~~ electronic format and shall be maintained by the pharmacy for at least 2
23 years. Except as provided in ~~sub. (3)~~ subs. (6) and (7), only a pharmacist may have
24 access to records of pseudoephedrine sales and information contained in those
25 records.

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1 **SECTION 6.** 961.235 (3) of the statutes is renumbered 961.235 (6) and amended
2 to read:

3 961.235 **(6)** A pharmacist shall make records required under s. 961.23 (4) (b)
4 available to a law enforcement officer who requests them. Law enforcement officers
5 may make those records available to other persons or redisclose information from
6 those records to other persons only in connection with a criminal investigation or
7 prosecution under this chapter.

8 **SECTION 7.** 961.235 (3m), (4), (5), (7) and (8) of the statutes are created to read:

9 961.235 **(3m)** Except as provided in sub. (4), a seller shall electronically submit
10 records of pseudoephedrine sales to the system before completing a sale of a
11 nonprescription pseudoephedrine product.

12 **(4)** If a seller who is attempting to complete a sale of a nonprescription
13 pseudoephedrine product experiences mechanical or electronic failure of the system
14 and is unable to comply with the requirement in sub. (3m), the seller may, subject to
15 the requirement under s. 961.23 (4) (b), complete the sale without complying with the
16 requirement under sub. (3m). The seller shall maintain a written log or an
17 alternative electronic record-keeping mechanism until such time as the seller is able
18 to comply with the requirement.

19 **(5)** A seller may not complete a sale of a nonprescription pseudoephedrine
20 product if the system generates a stop sale alert unless the seller has a reasonable
21 fear of imminent bodily harm if he or she does not complete the sale. The seller may
22 use the system's override function to complete the sale if he or she has a reasonable
23 fear of imminent bodily harm.

24 **(7)** The system shall provide real-time access through an online portal to
25 records of pseudoephedrine sales submitted under sub. (3m) to the department of

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1 justice and to law enforcement officers in the state. Law enforcement officers may
2 make those records available to other persons or redisclose information from those
3 records to other persons only in connection with a criminal investigation or
4 prosecution under this chapter.

5 (8) Absent negligence, wantonness, recklessness, or deliberate misconduct,
6 any seller utilizing the system in accordance with this section shall not be civilly
7 liable as a result of any act or omission in carrying out the duties required by this
8 section and shall be immune from liability to any third party unless the seller has
9 violated any provision of this section in relation to a claim brought for such a
10 violation.

11 **SECTION 8. Effective date.**

12 (1) This act takes effect on the first day of the 6th month beginning after
13 publication.

14 (END)