

SHB 2266 - H AMD TO H AMD (2266-S AMH CAMP BLAC 065)
By Representative Hinkle

1 On page 1, beginning on line 1 of the amendment strike all
2 material through "distributor." on page 9, line 30 and insert the
3 following:

4 "NEW SECTION. **Sec. 1.** Restricting access to certain precursor
5 drugs used to manufacture methamphetamine to ensure that they are
6 only sold at retail to individuals who will use them for legitimate
7 purposes upon production of proper identification is an essential
8 step to controlling the manufacture of methamphetamine.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 69.43
10 RCW to read as follows:

11 (1) Any product containing ephedrine, pseudoephedrine, or
12 phenylpropanolamine, or their salts, isomers, or salts of isomers
13 as its only active ingredient, sold at retail shall be sold only by
14 a pharmacy licensed by, or shopkeeper or itinerant vendor
15 registered with, the department of health under chapter 18.64 RCW,
16 or an employee thereof, or a practitioner as defined in RCW
17 18.64.011. A pharmacy licensed by, or shopkeeper or itinerant
18 vendor registered with, the department of health under chapter
19 18.64 RCW, or an employee thereof, or a practitioner as defined in
20 RCW 18.64.011 may only sell products containing ephedrine,
21 pseudoephedrine, or phenylpropanolamine, or their salts, isomers,
22 or salts of isomers as its only active ingredient to customers that
23 are at least eighteen years old, upon presentation of photographic
24 identification that shows the date of birth of the person. The
25 products must be kept in a location that is not accessible by
26 customers without the assistance of an employee of the merchant.

27 (2) A person buying or receiving a product at retail containing
28 ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts,
29 isomers, or salts of isomers as its only active ingredient, from a

1 pharmacy licensed by, or shopkeeper or itinerant vendor registered
2 with, the department of health under chapter 18.64 RCW, or an
3 employee thereof, or a practitioner as defined in RCW 18.64.011,
4 must be at least eighteen years old and must first produce
5 photographic identification of the person that shows the date of
6 birth of the person.

7 NEW SECTION. **Sec. 3.** A new section is added to chapter 69.43
8 RCW to read as follows:

9 (1)(a) The Washington association of sheriffs and police chiefs
10 or the Washington state patrol may petition the board to establish
11 restrictions for one or more products containing any amount of
12 ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts,
13 isomers, or salts of isomers, in combination with another active
14 ingredient. The petition shall establish that:

15 (i) Ephedrine, pseudoephedrine, or phenylpropanolamine can be
16 effectively extracted from the product and converted into
17 methamphetamine or another controlled dangerous substance; and

18 (ii) Law enforcement, the Washington state patrol, or the
19 department of ecology are finding substantial evidence that the
20 product is being used for the illegal manufacture of
21 methamphetamine or another controlled dangerous substance.

22 (b) The board shall adopt rules when a petition establishes
23 that restricting the sale of the product at retail is warranted
24 based upon the effectiveness and extent of use of the product for
25 the illegal manufacture of methamphetamine or other controlled
26 dangerous substances and the extent of the burden of any
27 restrictions upon consumers. The board may adopt such restrictions
28 as are warranted to prevent access to the product for use for the
29 illegal manufacture of methamphetamine or another controlled
30 dangerous substance, including the presentation of photographic
31 identification and accessibility requirements. The board may adopt
32 emergency rules to restrict the sale of a product when the petition
33 establishes that the immediate restriction of the product is
34 necessary in order to protect public health and safety.

35 (c) A manufacturer of a drug product may apply for removal of
36 the product from this section if the product is determined by the
37 board to have been formulated in such a way as to effectively
38 prevent the conversion of the active ingredient into

1 methamphetamine. The burden of proof for exemption is upon the
2 person requesting the exemption. The petitioner shall provide the
3 board with evidence that the product has been formulated in such a
4 way as to serve as an effective general deterrent to the conversion
5 of pseudoephedrine into methamphetamine. The evidence must include
6 the furnishing of a valid scientific study, conducted by an
7 independent, professional laboratory and evincing professional
8 quality chemical analysis. Factors to be considered in whether a
9 product should be excluded from this section include but are not
10 limited to:

11 (i) Ease with which the product can be converted to
12 methamphetamine;

13 (ii) Ease with which pseudoephedrine is extracted from the
14 substance and whether it forms an emulsion, salt, or other form;

15 (iii) Whether the product contains a "molecular lock" that
16 renders it incapable of being converted into methamphetamine;

17 (iv) Presence of other ingredients that render the product less
18 likely to be used in the manufacture of methamphetamine; and

19 (v) Any pertinent data that can be used to determine the risk
20 of the substance being used in the illegal manufacture of
21 methamphetamine or any other controlled substance.

22 (2) Nothing in this section applies:

23 (a) To the sale of a product that may only be sold upon the
24 presentation of a prescription; or

25 (b) When the details of the transaction are recorded in a
26 pharmacy profile individually identified with the recipient and
27 maintained by a licensed pharmacy.

28 (3)(a) No pharmacy licensed by, or shopkeeper or itinerant
29 vendor registered with, the department of health under chapter
30 18.64 RCW, or a practitioner as defined in RCW 18.64.011, may
31 retaliate against any employee that has made a good faith attempt
32 to comply with any requirement that the board may impose under
33 subsection (1).

34 (b) No pharmacy licensed by, or shopkeeper or itinerant vendor
35 registered with, the department of health under chapter 18.64 RCW,
36 or a practitioner as defined in RCW 18.64.011, is subject to
37 prosecution under subsection (4) of this section if they made a
38 good faith attempt to comply with any requirement that the board
39 may impose under subsection (1).

1 (4) A violation of this section is a gross misdemeanor."

2 Correct the title.

EFFECT: Removes requirements that products containing ephedrine, pseudoephedrine, and phenylpropanolamine as their only active ingredient be sold only at pharmacies and transactions involving these products be entered in a written log. Removes identification, log, accessibility, and age requirements on the sale of products containing ephedrine, pseudoephedrine and phenylpropanolamine in combination with another active ingredient. Removes the exemption for products containing ephedrine, pseudoephedrine, and phenylpropanolamine in liquid and gel capsule forms. Authorizes the Washington Association of Sheriffs and Police Chiefs or the Washington State Patrol to petition the Board of Pharmacy to place restrictions on products containing ephedrine, pseudoephedrine and phenylpropanolamine in combination with another active ingredient when there is evidence of their use for the illegal manufacture of methamphetamine or another dangerous controlled substance. Permits the Board of Pharmacy to adopt rules to restrict products upon petition of the Washington Association of Sheriffs and Police Chiefs. Establishes criteria to remove restrictions from products.