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

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

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

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

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

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

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

(3) Nothing in this section applies to products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers as its only active ingredient and that is in liquid, liquid capsule, or gel capsule form.

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

(1)(a) The Washington association of sheriffs and police chiefs, the Washington state patrol, or the department of ecology may petition the board to establish restrictions for one or more products in any form containing any amount of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, in combination with another active ingredient or where it is the only active ingredient and it is in liquid, liquid capsule, or gel capsule form. The petition shall establish that:

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

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

(b) The board shall adopt rules when a petition establishes that restricting the sale of the product at retail is warranted based upon the effectiveness and extent of use of the product for the illegal manufacture of methamphetamine or other controlled dangerous substances and the extent of the burden of any restrictions upon consumers. The board may adopt such restrictions as are warranted to prevent access to the product for use for the illegal manufacture of methamphetamine or another controlled dangerous substance, including the presentation of photographic identification and accessibility requirements. The board may adopt

emergency rules to restrict the sale of a product when the petition establishes that the immediate restriction of the product is necessary in order to protect public health and safety.

(c) A manufacturer of a drug product may apply for removal of the product from this section if the product is determined by the board to have been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine. The burden of proof for exemption is upon the person requesting the exemption. The petitioner shall provide the board with evidence that the product has been formulated in such a way as to serve as an effective general deterrent to the conversion of pseudoephedrine into methamphetamine. The evidence must include the furnishing of a valid scientific study, conducted by an independent, professional laboratory and evincing professional quality chemical analysis. Factors to be considered in whether a product should be excluded from this section include but are not limited to:

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

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

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

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

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

(2) Nothing in this section applies:

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

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

(3)(a) No pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, or a practitioner as defined in RCW 18.64.011, may retaliate against any employee that has made a good faith attempt

to comply with any requirement that the board may impose under subsection (1).

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

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

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. Exempts products containing ephedrine, pseudoephedrine, and phenylpropanolamine as their only active ingredient and that are in liquid, liquid capsule, or gel capsule from the pharmacy requirement. 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, the Washington State Patrol, or Department of Ecology to petition the Board of Pharmacy to place restrictions on products containing ephedrine, pseudoephedrine and phenylpropanolamine in combination with another active ingredient or as the only active ingredient when in liquid, liquid capsule, or gel capsule form 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.