

# Legislative Analysis



## METHAMPHETAMINE ABUSE REPORTING ACT

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**Senate Bill 535 (Substitute S-2)**  
**Senate Bill 756 without amendment**  
**Sponsor: Sen. John Proos**  
**House Committee: Criminal Justice**  
**Senate Committee: Judiciary**

**Complete to 4-29-14**

## A SUMMARY OF SENATE BILLS 535 AND 756 AS PASSED BY THE SENATE 2-20-14

Senate Bill 535 would create the Methamphetamine Abuse Reporting Act to:

- Require the Michigan State Police to notify the National Association of Drug Diversion Investigators (NADDI) of methamphetamine-related convictions for inclusion in the NPLeX database. (NPLeX stands for the National Precursor Log Exchange.)
- Specify the minimum level of information to be transmitted and require the information to be updated to reflect convictions, set-asides, and expungements.
- Require the use of the information to be for the purpose of generating stop-sale alerts for persons convicted of meth-related offenses when attempting to purchase products containing ephedrine or pseudoephedrine.
- Provide a stop-sale alert to be in force for 10 years from the date of conviction of a meth-related offense.
- Allow a person to contact the MSP to correct an erroneously-generated stop-sale alert.
- Create immunity from civil liability for MSP and NADDI for compiling and maintaining the information of meth-related convictions, and for retailers who rely on the stop-sale alerts.
- Exempt information provided under this act from disclosure under FOIA.
- Create criminal penalties for the intentional and unauthorized disclosure of information provided under the act.
- Define terms.

Senate Bill 756 would require the NPLeX system to be capable of generating a stop-sale alert due to a conviction reported by the MSP under the Methamphetamine Abuse Reporting Act and would prohibit a person from selling certain products containing ephedrine or pseudoephedrine to an individual during the 10-year period a stop-sale alert was in effect for a methamphetamine conviction.

The bills are tie-barred to each other and would take effect January 1, 2015.

## BACKGROUND INFORMATION

Currently, a retailer – before completing a sale under Section 17766f of the Public Health Code – must electronically submit the required information to the National Precursor Log Exchange (NPLEx) administered by the National Association of Drug Diversion Investigators (NADDI). If the system generates a "stop sale" alert, the retailer is prohibited from completing the sale. A violation is a state civil infraction that may result in a fine of \$500 for each violation. (Section 17766f limits the sale of ephedrine and pseudoephedrine to no more than 3.6 grams per individual per day or more than 9 grams per individual for any 30-day period.)

The National Precursor Log Exchange (NPLEx) is a real-time electronic logging system used by pharmacies and law enforcement to track sales of OTC cold and allergy medications containing ephedrine and pseudoephedrine. The system is sponsored by the makers of such medications and provided to law enforcement agencies and state governments free of charge by the National Association of Drug Diversion Investigators. The system blocks sales that would exceed legal limits and provides law enforcement with immediate access to transaction information when necessary.

How much is 3.6 grams of pseudoephedrine? According to Appriss, Inc., 3.6 grams is the amount found in:

- One 15-count box of a 24-hour allergy medicine (15 pills x 240 mg per pill = 3.6 grams);
- Three 10-count boxes of a 12-hour cold medicine (30x 120 mg = 3.6 grams); or,
- Six 20-count boxes of a four-six hour cold medicine (120 x 30 mg = 3.6 grams).

## CONTENT OF THE BILLS

### Senate Bill 535

The bill would create the Methamphetamine Abuse Reporting Act to do the following:

- Require the Department of State Police (MSP) to notify NADDI of convictions of methamphetamine-related offenses, beginning with convictions occurring on or after the bill's effective date. At a minimum, the information would have to include the offender's date of birth, full name, driver license or state ID (if known by MSP), date of conviction, and a statement the person was convicted of a meth-related offense, which could be satisfied by a statutory citation to the violation.
- Specify that the purpose of the above would be to generate a stop-sale alert through NPLEx. The stop-sale would be in force for 10 years from the date of conviction for the methamphetamine-related offense.
- Allow NADDI to provide a statement on NPLEx that the stop-sale alert was generated due to a conviction for a methamphetamine-related offense and that the

subject of the alert may contact MSP if the person believes the information reported to NADDI under the new act is erroneous.

- Require the MSP to contact NADDI if:
  - MSP corrects/updates information regarding the conviction, if the information had been previously reported to NADDI; and/or,
  - The conviction is set aside or expunged.
- Require NADDI to promptly correct or update information in, or remove information from, NPLeX upon notification by MSP of the above.
- Provide civil immunity to MSP and NADDI for compiling, maintaining, or reporting methamphetamine-related offense information under the new act.
- Allow a person who sells ephedrine or pseudoephedrine at retail to rely on information provided by the MSP to NADDI for enforcing a stop-sale alert. Except as stated below, provide immunity from civil liability for the reliance upon and use of that information.
- Prohibit a person from intentionally disclosing to any person any information he or she knows was provided under the act, except as otherwise authorized by the act. Information provided under the act and information entered into NPLeX under the act would not be subject to public disclosure under the Freedom of Information Act.
- Create a criminal penalty for the unauthorized disclosure of information in violation of the above provision. A violation would be a misdemeanor punishable by imprisonment for not more than 90 days and/or a fine of not more than \$500.
- Define "methamphetamine-related offense" to mean a violation of one or more of the following provisions in the Public Health Code:
  - A violation or attempted violation of Article 7 (Controlled Substances) involving methamphetamine.
  - A violation or attempted violation of Section 17766c of the Code (which limits the nonprescription purchase of products containing ephedrine or pseudoephedrine to certain amounts.)
  - A violation or attempted violation of Section 17766f of the Code (which governs the nonprescription sale of products containing ephedrine or pseudoephedrine).

**Senate Bill 756** would amend the Public Health Code (MCL 333.7340a and 333.17766f). Currently, the NPLeX system must be capable of generating a stop-sale alert notifying the retailer that completing the sale will result in the seller's or purchaser's violating the quantity limits for the sale of ephedrine or pseudoephedrine. The bill instead would require the system to be capable of generating a stop-sale alert notifying the retailer that

the person was prohibited from purchasing a nonprescription product containing ephedrine or pseudoephedrine due to a conviction reported under the proposed Methamphetamine Abuse Reporting Act or that completing the sale would result in a violation of the quantity limits for the sale of ephedrine or pseudoephedrine.

The bill would also prohibit a person from knowingly selling any product containing any compound, mixture, or preparation containing any detectable quantity of ephedrine or pseudoephedrine, a salt or optical isomer of ephedrine or pseudoephedrine, or a salt of an optical isomer of ephedrine or pseudoephedrine to an individual during the period in which a stop sale alert is generated for that individual based upon criminal history record information provided under the Methamphetamine Abuse Reporting Act.

### **FISCAL IMPACT:**

Senate Bill 535 would result in a minimal fiscal impact on the Department of State Police. To comply with the provisions of the bill, MSP would have to selectively assemble the required criminal history records (CHR) information and "push" that information to the National Association of Drug Diversion Investigators. (NADDI would not "pull" CHR data from MSP, nor would it be able to review the entire breadth of available CHR information about a purchaser.) This would require some programmatic changes to MSP's CHRI databases and applications. The cost of these programmatic changes would be minimal and could be supported by the existing appropriations available to the department.

A fiscal analysis on the impact to the corrections system and the judiciary by the bills is in process.

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