

ONE HUNDRED SECOND LEGISLATURE - FIRST SESSION - 2011
COMMITTEE STATEMENT
LB20

Hearing Date: Wednesday January 19, 2011
Committee On: Judiciary
Introducer: McCoy
One Liner: Regulate the sale of methamphetamine precursors

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye:	7	Senators Ashford, Council, Coash, Harr, Larson, Lathrop, McGill
Nay:	1	Senator Lautenbaugh
Absent:		
Present Not Voting:		

Proponents:

Kevin Kraushaar
Terry Wagner
James Acquisto
Joni Cover
Kathy Siefken

Representing:

Consumer Health Products Association
NE Sheriff's Association
NPLEX
Nebraska Pharmacists Association
Nebraska Grocery Industry Association

Opponents:

Representing:

Neutral:

John Lindsay

Representing:

Nebraska Association of Trial Attorneys

Summary of purpose and/or changes:

LB 20 would establish beginning January 1, 2012, a new protocol for the sale of products deemed to be methamphetamine precursors by Nebraska retailers.

The new protocol, which is contained in section 4 of this act, would require the following:

1. Before the completion of a sale, seller must electronically submit to the National Precursor Log Exchange (administered by National Association of drug Diversion Investigators) at least the following information:
 - a. Name and address of the person purchasing, receiving or acquiring the precursor;
 - b. Name and quantity of product purchased;
 - c. Name or initials of person selling product; and
 - d. Type of identification presented during the purchase of the product, the governmental entity that issued the identification and the number on the identification card.
 2. In cases of mechanical or electronic failure of accessing the log, the seller must maintain a written log or alternate electronic log to comply with this act.
 3. The Attorney General may grant a waiver exempting a seller from complying with the collection of information required under this act upon good cause shown by the seller, that they are unable to submit log information electronically.
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4. Provides that a sale of the product cannot go forward if a stop-sale alert is generated, unless the seller has a reasonable fear of imminent bodily harm for failing to complete the sale.
5. Provides that seller is not required to collect this information if buyer has a prescription.
6. Provides that as a condition of use in Nebraska, the National Association of Drug Diversion Investigators must provide access to the exchange through its online portal to Nebraska Law enforcement as authorized by the Attorney General and that no fee shall be charged to the seller for use of the exchange.
7. Provides civil immunity for sellers' acting in good faith with this act.
8. Sellers who fail to comply or knowingly submits incorrect information to the exchange shall be guilty of a Class IV misdemeanor.

Explanation of amendments:

Committee Amendment 64 would make the following changes to LB 20:

Section 3. Revises definition to methamphetamine precursor to mean any drug product containing ephedrine, pseudoephedrine, or phenylpropanolamine that is required to be documented according to the logbook requirements of 21 U.S.C. 830. The current definition provided under the green copy of LB 20 defines methamphetamine as described in section 28-456 of the Nebraska Statutes.

Section 4. Amends subsection (a) to include the age of the purchaser, as required information that must collected under this subsection in addition to the collection of "name" and "address".

Subsection (2) of this section is also amended to provide that the seller of items identified as methamphetamine precursors may refrain from selling these products if they experience a mechanical or electrical failure.

Finally, subsection (5) of this section is amended to provide that compliance with section 4 is not required when a lawful prescription for items identified as a methamphetamine precursor is presented to a licensed pharmacist. As introduced, the prescription had to be presented to the "seller", it was thought best to clarify that the prescription had to be presented to a "pharmacist" for the exemption from compliance to attach.

Section 6. Is amended to provide that no claim or cause of action may arise against a seller of items identified as methamphetamine precursors for information submitted to the exchange as required under sections 3 to 7 of this act.

Section 7. Provides that the criminal penalty provided in this section does not begin until January 1, 2013. This delay in the penalty was believed necessary to provide pharmacist and retailers time to acclimate to the new electronic system.

Section 8. A new subsection 3(b) was created to provide that a seller of items identified as a methamphetamine precursors in accordance to sections 3 to 7 of this act may scan machine-readable information from driver's licenses and state issued identification cards and that the seller may store the following from these cards:

-Name;

-Age;

-Address;

-Type of identification presented by customer;

-The governmental identity that issued the identification; and

-The number on the identification.

This section also requires the seller to post a sign at the point of sale providing notice that the identification card will be scanned and that certain information will be stored. This section also clarifies that the stored information may only be used by law enforcement agencies, regulatory agencies and the National Precursor Log Exchange for purposes of enforcement of the restrictions on the sale or purchase of these precursors according to sections 3 to 7 of this act.

Finally, in subsections (c) and (d) of this section is amended to include the term "seller" in these subsections.

Section 9. Provides that the act will become operative on January 1, 2012

Brad Ashford, Chairperson