

  
**National Alliance for Model State Drug Laws**




**National Chemical Control Conference**  
 June 11, 2008  
 Chicago, Illinois


**Eliminating smurfing and meth labs:  
 The Oregon Alternative**

**Rob Bovett, Legal Counsel**  
 Oregon Narcotics Enforcement Association

**The Case for Moving Pseudoephedrine**



**to Schedule III (prescription only)**

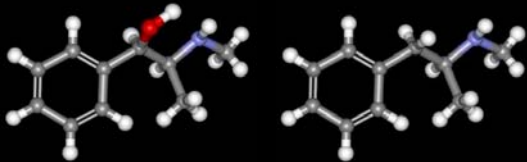
Presented at the National Chemical Control Conference  
  
 Chicago, Illinois  
 June 11, 2008

**METH EPIDEMIC SOLUTIONS**  
*Never think that a small group of thoughtful, concerned citizens can change the world. Indeed, it's the only thing that ever has.*  
 —Margaret Mead

**1. INTRODUCTION**  
 An epidemic of methamphetamine abuse and addiction has swept across our nation and the world. It is what has destroyed families, devastated communities, caused property crimes to surge, and caused untold misery of children. Tragically, the meth epidemic is unnecessary. In 1976, the law required necessary to make the most potent form of meth was approved by the federal government for over-the-counter sale. Over the course of the next thirty years, as state-by-state regulations, the government repeatedly forced its position from the pharmaceutical industry, allowing complete public access, health and safety. However, recent efforts have begun to take the lid off and bring the meth epidemic to the world. There is still much work to be done, but we now have an opportunity—a public opportunity—to address the underlying issue of addiction.

\*Rob Bovett, J.D., Northwestern School of Law of Lewis & Clark College (1999), B.A. Biology and Natural Science at the University of Idaho (1988), Rob Bovett is a legal consultant and Professor of the Oregon Alliance for Drug Control (2006). He has been a member of the Oregon State Bar since 1990 and has been admitted to the bar in Oregon and Washington. He has been a member of the Oregon State Bar since 1990. The article is published in the Oregon State Bar News, Vol. 10, No. 1, 2008.

**Pseudo/ephedrine and Meth**

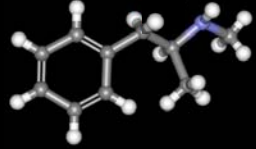


(+)-Pseudoephedrine (C<sub>10</sub>H<sub>15</sub>NO)      (+)-Methamphetamine (C<sub>10</sub>H<sub>15</sub>N)

Legend: Carbon (grey), Hydrogen (white), Nitrogen (blue), Oxygen (red)

**A Meth Lab:**  
 (Ogata or Birch reduction)

Start with Pseudo/Ephedrine  
 Remove the hydroxyl group  
 Add back hydrogen



(+)-Methamphetamine (C<sub>10</sub>H<sub>15</sub>N)

Legend: Carbon (grey), Hydrogen (white), Nitrogen (blue), Oxygen (red)

**Reductions – Lessons Learned**

**Quantity limitations:**

- Little to no reduction


**BTC (Sch V lite):**

- 40-70% reduction

**BTC pharmacy (Sch V):**

- 70-90% reduction

**What's left: Smurfing**



- Group smurfing
- Interstate smurfing

## Interstate smurfing

- The fix:
  - Nationwide PSE control
  - CMA
    - Schedule V
  - CMEA (PAR-T7)
    - Schedule V lite



## The Oregonian

### Meth bill may miss potential pipeline The House tries to protect mini-marts that sell cold pills, but their legitimate sales are tiny

Thursday, November 10, 2005  
STEVE SUO

Four years ago, market researcher Jonathan Robbin sat down to estimate how much cold medicine a typical convenience store in Oregon could legitimately expect to sell in a month.

The answer: about \$40.

The products are such a tiny part of a typical convenience store's sales, Robbin found, that only two customers in 1,000 purchased Sudafed. Most walk in for soda, gasoline and snacks.

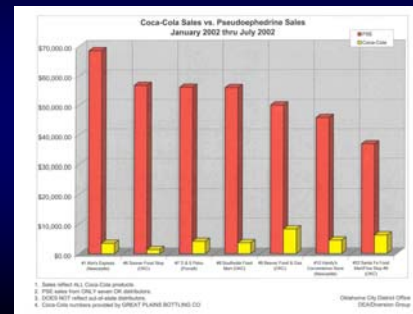
But Robbin's 2001 study -- commissioned by the U.S. Drug Enforcement Administration -- found 84 convenience stores in Oregon and Southwest Washington that sold more than \$500 of the potential methamphetamine ingredient each month from 1999 to 2000.

## Ricercar study (2001)

Examined PSE at Convenience Stores

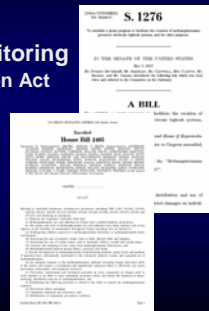
- DEA commissioned study – Portland, Oregon
- Study results:
  - Almost all stores were selling PSE “wildly in excess” of legitimate consumer demand.
  - Most stores were “extreme outliers” for what they should have been selling.
  - Example:
    - “Sudafed” product sales expected to be in the \$30-40 range per month per store, based on national studies.
    - Instead, they were in the \$500-\$1,000 range per month per store!

In Oklahoma: Compared convenience store PSE sales to Coca-Cola sales . . .



## Smurfing

- Options:
  - Electronic database monitoring
    - Meth Production Prevention Act
    - S 1276
  - Oregon alternative:
    - Prescription (Schedule III)
    - HB 2485



## Smurfing by example . . .



## Smurfing by example . . .



FAITH CATHCART/THE OREGONIAN  
State Sen. Ginny Burdick of Portland (left), Rep. Wayne Krieger of Gold Beach (center) and Sen. Roger Beyer of Molalla (right) joined with Rep. Greg Macpherson (not in picture) of Lake Oswego to show how easy it is for meth cooks to obtain enough cold medicine to manufacture the illicit drug.



## There were only a few "no" votes

- HB 2485
- 9 out of 90
- SB 907
- 1 out of 90

### The Oregonian

#### Lawmaker faces arrest in Salem on meth charge

Thursday, October 13, 2005  
JANIE HARR

SALEM - Salem police said Wednesday they intend to arrest Rep. Kelley Wirth, D-Corvallis, on one count of possession of methamphetamine.

The drug was found in Wirth's car when she was struck by another car last month outside the state Capitol. The driver of that car, Lisa Temple, has been charged with attempted murder and assault. Temple is the girlfriend of a Capitol building janitor who claims to have had a sexual relationship with Wirth. She has denied the relationship.

Lt. Bill Kohlmeier, spokesman for the Salem Police Department, said investigators are trying to



## Schedule III at the Polls

- What do the people think?



## Schedule III at the Polls

- Hmmmm . . . but then . . .



## What?

- Same media outlet and pollster . . .
- Two weeks apart . . .
- What's up?
- Talking out of two sides of her face?
- Maybe blue vs. purple blazer?
- Eric Mason?
- Ahhhh:
  - ALL cold medicines vs.
  - SOME cold medicines
- But still no ACCURATE poll . . .



## What really happened . . .

- Almost no whining at all . . .

## . . . the pharmaceuticals reformulated . . .

**WSJ.com THE WALL STREET JOURNAL**

**Pfizer-Backed Move to Curb Cold Pills May Boost Company**

*Heather Wes Tesoriere*  
April 13, 2005

**JUST A YEAR** ago, Pfizer, Inc. was leading the charge against state lawmakers who want to restrict sales of over-the-counter cold medications that contain pseudoephedrine (PSE), which can be used to manufacture the illegal stimulant methamphetamine. Pfizer's Sudafed contains PSE and is one of the products that some states want kept behind pharmacists' counters and subject to sales limitations.

Now the drug maker has changed sides, a move that has helped boost the chances of bills pending in more than two dozen states and a proposed law in Congress, which is expected to hold hearings on the issue this month.

What caused Pfizer's change of heart? In January, the company rolled out a reformulated product, Sudafed PE, that contains no pseudoephedrine and thus can't be used to make meth. That makes it immune from existing or pending laws, and would give Sudafed PE valuable shelf space to itself. Other drug makers aren't likely to have substitute products on the market for several months at least.

The new Sudafed PE contains phenylephrine (PE), an ingredient contained in several cold formulations Pfizer has sold overseas for years. Pfizer is reformulating its entire Sudafed line and expects most of the products to be changed to PE by the end of the year.

**The Oregonian**  
Political pressure drives drug industry to change

### New cold pills strike at home meth labs

1.3 million meth addicts in the United States	35% amount of the U.S. meth market produced in home labs	80% of methamphetamine used in Oregon	1,850 meth labs found in Oregon in the past 10 years
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By STEVE SUO  
The OREGONIAN  
Wednesday, June 22, 2005

Cold medicine manufacturers, in an attempt to change, are reformulating their products in a way that may shut out home meth labs, which account for 35 percent of legal meth production.

Drug companies are rushing to replace their pseudoephedrine-based products with the decongestant phenylephrine, which can not be made into methamphetamine. The new cold medicine is expected to dominate the U.S. marketplace within the next few years.

Previous industry opposition has resulted in the loss of pending federal regulation of the meth epidemic and the drug's devastating impact.

Reformulate their cold and allergy medicines with the decongestant phenylephrine (PE) instead of pseudoephedrine (PSE)

## What really happened . . .

- Almost no whining at all . . .
- I still live in Oregon . . .
- The bill is now broadly celebrated as a great success!

## It's now even a marketing strategy!

**INTRODUCING NEW REFORMULATED SINE-OFF.**  
Works to fight colds, flu, sinus congestion, and the devastating effects of Meth abuse.

## Results?

- ONDCP Report (Nov 2006):

- Oregon:
  - Strongest PSE law
  - Largest meth lab reduction



- Since then:

- Oregon:
  - Elimination of in-state smurfing
  - Near elimination of meth labs in Oregon
  - The handful we have left each year . . .  
 . . . interstate smurfing

## Results

2003		2004		2005		2006		2007	
January	34	January	40	January	24	January	9	January	3
February	38	February	42	February	19	February	6	February	0
March	36	March	49	March	23	March	15	March	1
April	49	April	39	April	31	April	8	April	1
May	51	May	59	May	26	May	4	May	4
June	26	June	41	June	15	June	6	June	0
July	37	July	42	July	7	July	4	July	0
August	42	August	30	August	10	August	6	August	1
September	52	September	28	September	8	September	2	September	3
October	53	October	34	October	13	October	2	October	2
November	33	November	18	November	9	November	1	November	3
December	22	December	25	December	7	December	0	December	0
473		448		192		63		18	

- Even more striking:
  - 16 of those 18 were dump sites or remnants!

## Reductions - Lessons Learned

### Quantity limitations:

- Little to no reduction
- BTC (Sch V lite):**
  - 40-70% reduction
- BTC pharmacy (Sch V)**
  - 70-90% reduction
- Prescription (Sch III)**
  - 90+% reduction

But then again, there's always Colbert . . .



## Our predictions . . .

- 1. Further reduction of smurfing and STL's
- 2. Mexican drug cartels would fill the gap
- 3. Property crimes would increase

## As it turns out . . .

- 1. Further reduction of smurfing and STL's
  - YES
- 2. Mexican drug cartels would fill the gap
  - YES
- 3. Property crimes would increase
  - NO
  - Huh?

# It doesn't seem right, but . . .

State	2006 Population	PSE LAWS ENACTED			Approximate Percentage Change in Property Crime Rates, 2002-2006		
		2004	2005	2006	Property Crime Rates	Meth Lab Penalties	
Arkansas	4,287,768	40,233	48,877	59,008	-2.43%	-0.223%	48%
Arizona	2,982,083	29,424	29,451	29,337	-1.11%	-0.206%	24%
Kansas	2,766,073	40,146	39,861	37,120	-1.43%	-0.261%	24%
Kentucky	4,208,074	25,403	25,113	23,444	0.51%	0.548%	43%
Minnesota	5,147,101	30,471	30,351	30,739	-0.20%	-0.241%	29%
Missouri	5,842,713	39,901	39,291	38,730	-2.62%	-0.373%	45%
Montana	944,832	26,301	31,440	28,389	14.56%	-0.638%	48%
Oklahoma	3,170,212	42,421	48,877	34,044	-10.05%	-0.830%	48%
Oregon	3,700,758	48,701	44,652	38,172	-18.98%	-1.537%	47%
Tennessee	6,034,803	43,277	42,399	41,726	-3.38%	-0.481%	24%
West Virginia	1,814,470	29,541	28,152	28,221	-0.39%	-0.212%	24%
Wisconsin	5,536,509	28,440	29,684	28,139	5.98%	0.373%	20%
<b>Average Percentage Drop</b>					<b>-4.85%</b>	<b>-0.294%</b>	

State	2006 Population	No PSE Laws Enacted			Approximate Percentage Change in Property Crime Rates, 2002-2006		
		2004	2005	2006	Property Crime Rates	Meth Lab Penalties	
Alabama	4,199,030	40,233	39,801	38,304	0.52%	0.011%	42%
Alaska	670,013	37,711	38,411	38,304	-0.20%	-0.251%	34%
Arizona	6,168,318	60,771	48,277	48,277	-4.14%	-0.551%	29%
California	36,471,249	34,221	33,231	31,711	-4.03%	-0.624%	44%
Colorado	4,713,277	38,141	40,411	41,111	0.00%	0.000%	20%
Connecticut	3,504,809	28,841	25,779	25,084	-2.31%	-0.242%	34%
Delaware	833,436	22,241	21,111	24,111	0.00%	-0.221%	100%
Florida	18,089,888	41,841	40,111	38,111	-0.17%	-0.046%	27%
Georgia	9,141,941	42,211	41,841	38,111	-0.51%	-0.208%	43%

# International

- Recent success and good trends
- More pressure to cook meth locally

# Super Labs

- Cutting off the supply of E/PSE feeding the super labs

## The Sunday Oregonian

The siren of meth fuels crime and ravages communities across the West. But an analysis by The Oregonian shows sustained pressure by government could stop the . . .

### UNNECESSARY EPIDEMIC

Specialty, October 03, 2004  
STEVE MOO

A decade ago, federal authorities choked off the supply of chemicals needed to make methamphetamine, a cheap, potent stimulant that was devastating the West.

The drug grew scarce, and meth cooks were fewer meth labs. Emergency rooms reported fewer meth overdoses. Fewer people were arrested for possessing the drug. Quality meth and car theft — crimes typically committed by meth addicts — fell in several Western cities.

Federal agents had vastly improved the quality of life, but they didn't know it.



Search for the siren. Agents will be from Methamphetamine. Top Foto needs to be used to identify. Agents will be from Methamphetamine. Top Foto needs to be used to identify. Agents will be from Methamphetamine. Top Foto needs to be used to identify.



## The Oregonian

Friday, March 3, 2006

"This is the most important meth bill that's ever been passed by the United States Congress."

Rep. Mark Warner, D-Va., chairman of the House subcommittee overseeing drug policy

# Congress OKs landmark restrictions to fight meth



Crystal methamphetamine is the greatest drug threat in the United States, according to the National Drug Intelligence Center.

# Worldwide meth epidemic . . .

**The Oregonian**  
World awash in meth

A global epidemic in methamphetamine is spreading across the globe. The drug is now being found in major cities around the world, including London, Paris, and Tokyo. The epidemic is spreading so fast that it is now being found in major cities around the world, including London, Paris, and Tokyo.

**International Herald Tribune**  
Czech republic threatens to spread through Europe

THOMAS HANCOCK/22/2007  
BY NICHOLAS KULSH

The methamphetamine epidemic is not just a scourge of the American heartland. It has a powerful foothold base in the heart of Central Europe. Here meth labs are spreading up all over the country to produce this cheap, potent drug using the pseudoephedrine found in common cold medications.

In 2000, Czech police found 10 cooking facilities. By last year that number had grown to 818 — in a country of just 10.2 million people.

## The U.N. Gets Involved

UNITED NATIONS  
Office on Drugs and Crime

**Imports of ephedrine and pseudoephedrine**  
A new UN resolution calls on countries to estimate their legitimate demand for medicines containing ephedrine and pseudoephedrine, to authorize controlled access imports, and to inform.

Country	Amount
U.S.	260
Switzerland	97
Belgium	72
Indonesia	64
Singapore	39
Canada	37
South Korea	35
Germany	35
United Kingdom	33

Country	2000	2004	Change
Mexico	260	179	-36%
Switzerland	38	97	+155%
Belgium	19	72	+274%
Indonesia	13	64	+392%
China	0	39	+390%
Singapore	20	39	+95%
Philippines	0	14	+140%
Turkey	14	26	+86%
South Africa	8	10	+25%
Brazil	4	14	+250%

## The Results . . .

- Imports of pseudoephedrine plummet
  - Mexico:
    - 2004 – 226 metric tons
    - 2005 – 98 metric tons
    - 2006 – 43 metric tons
    - 2007 – 40 metric tons
    - 2008 – 0 metric tons\*
    - 2009 – ban\*

Imports  
North America's imports of pseudoephedrine and pseudoephedrine have plummeted 75 percent in the past two years.

\*2008 is projected based on data through August for the U.S. and Canada, and on Mexico's declared quota of 70 tons for the year.  
Source: United Nations Statistics Division

## The Results . . .

Purity levels dropped nationwide:

**Dropping meth numbers**  
Purity  
The purity of methamphetamine sold on the street has plunged for the first time since the 1990s.

Spring 2005 = 77% → Spring 2006 = 51%

Source: The Oregonian's analysis of data from the U.S. Drug Enforcement Administration.

## The Results . . .

AP Associated Press

## Mexico launches war on drug lords

Calderon vows war against notorious drug gangs

Tuesday, December 12, 2006

APATZINGAN, Mexico (AP) -- Soldiers stopped cars and frisked passengers Tuesday, searching for drugs or weapons.

Helicopters swooped low over remote mountaintops, looking for signs of opium and marijuana fields.

Ships patrolled Mexico's main Pacific port, a hub for drugs arriving from Central America and Colombia.

Less than two weeks after taking office, President Felipe Calderon launched a full-scale attack on the drug trade in his home state of Michoacan.

He is promising to bring an end to traffickers' horrific intimidation tactics.

## But then purity went back up . . .

- Temporarily . . .
- E/PSE Precursors:
  - \* *N-Acetylpseudoephedrine Acetate (APSE)*
  - \* *l-Phenylacetylcarbinol (L-PAC)*

## The Oregonian

### Mexico halts meth chemical at Pacific port

19.5 tons - The seizure shows controls aren't solid and could be leverage for China

Thursday, December 14, 2006  
STEVE SUO

Mexican officials inspecting a cargo container shipped from China have uncovered a 19.5-ton cache of pseudoephedrine, enough to make a dose of methamphetamine for every adult American.

Hundreds of barrels containing the essential meth ingredient were seized Dec. 5 at the Lazaro Cardenas seaport in Michoacan after a citizen tip, according to Mexico's attorney general. It was the largest seizure of pseudoephedrine or ephedrine in Mexican history and one of the biggest on record worldwide.



Government of Mexico/SPECIAL TO THE OREGONIAN  
Mexican authorities seized more than 19 tons of pseudoephedrine smuggled into a port city from China.






## REUTERS

### Police find \$206 million in drug cash in Mexican house

Friday, March 16, 2007

MEXICO CITY (Reuters) - Police have found \$206 million in cash, belonging to drug smugglers who imported chemicals used to make methamphetamines, piled inside a mansion in a wealthy Mexico City neighborhood, officials said on Friday.

Police arrested seven people at the house. They found wads of hundreds of dollars stuffed in drawers, suitcases and closets around the house.






Zheni Ye Gon      Unimed Pharm Chem Mexico

## REUTERS

### U.S. arrests Chinese-Mexican suspected meth king

Wednesday, July 25, 2007

MEXICO CITY (Reuters) - The United States arrested on Monday a Mexican laboratory owner accused of helping make huge quantities of crystal meth, four months after police found \$206 million cash in his Mexico City mansion.

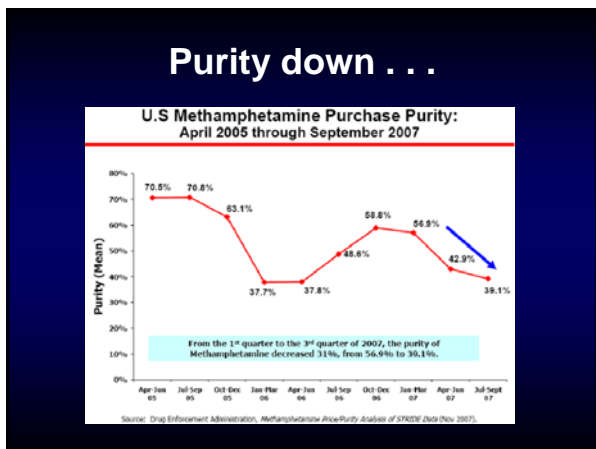
Mexico's attorney general, Eduardo Medina Mora, said U.S. authorities had confirmed the arrest of Chinese-born Zheni Ye Gon.

"We have received the news informally but confirmed by official sources that the arrest took place," Medina Mora said on Mexican television network Televisa.

Mexico has requested the extradition of Ye Gon, the attorney general's office said in a statement. He was arrested in the Washington suburb of Wheaton, Maryland.

It was not immediately clear if the arrest was the result of Mexico's request, although U.S. authorities had previously said no warrants had been issued for Ye Gon. Mexico now has 60 days to make its case for extradition.

Mexican police in March raided a mansion owned by Ye Gon and found wads of U.S. bank notes in bulging suitcases and overflowing closets.

the malaysia star 

## Ten in court for preparing drugs for trafficking

Friday, March 14, 2008  
By MEERA VIJAYAN

JOHOR BARU: Ten men, including nine foreigners, were charged at a magistrate's court in connection with a drug trafficking case.

The accused in the first charge were Ho Bee Seng, 53, and Tan Chhwee Liang, 28, from Singapore, Jesus Alfonso, 36, and Jerje Enrique, 32, from Mexico and James Dugalo, 41, from Canada.

They were all alleged to have committed a preparatory act for trafficking 40.8kg of Ketamin on March 4 at about 3.10pm at No 77, Jalan Jingga 5, Taman Pelangi.

The other five accused were Lim Mun Wang, 52, from Singapore, Lee Boon Sian, 44 from Malaysia, and Jose Regino Gonzalez Villarreal, 29, Simon Gonzalez Villarreal, 32, and Luis Alfonso Gonzalez Villarreal, 40, from Mexico.

They were charged with committing a preparatory act for trafficking 215kg of methamphetamine at around 3.15pm at IPL Packaging Industries Sdn Bhd at 55, Jalan Desa Idaman 1/5, Senai Industrial Park on March 4.


## Increasing pressure to cook locally

- Smurfing
- Ending smurfing . . . choices:
  - 1. Electronic database monitoring
  - 2. Oregon alternative - Schedule III

## A couple work groups . . .

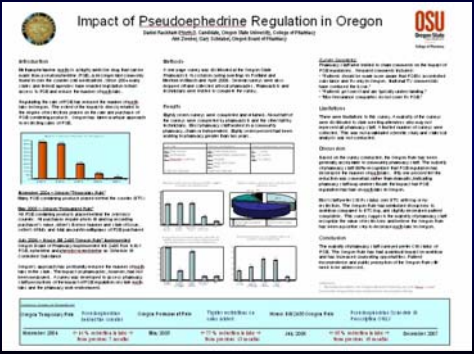
- National Alliance for Model State Drug Laws (NAMSDL)
  - Precursor Tracking Advisory Committee
  - Policy recommendations
- American Society for Automation in Pharmacy (ASAP)
  - PSE Tracking Standard Workgroup
  - Implementation standards

## ASAP



- 38 pages of administrative misery for your local pharmacist
- Enormous taxpayer and LE expense
- Will it even work?


## Oregon BOP Survey - April 2008



The report, titled "Impact of Pseudoephedrine Regulation in Oregon" by OSU, includes sections on Introduction, Methods, Results, Discussion, and Conclusions. It features several bar charts and tables illustrating the impact of the regulation on pseudoephedrine sales and purchases in Oregon compared to other states.

## NAMSDL

The Oregon alternative "offers an effective approach . . . if broadly adopted, there would be no reason to develop state or national tracking systems, resulting in substantial, ongoing savings, literally in the millions of dollars."





**Questions?**



**Rob Bovett, Legal Counsel**  
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