

111TH CONGRESS
1ST SESSION

S. _____

To direct the Secretary of Health and Human Services to promulgate rules requiring a prescription to dispense pseudoephedrine and pseudoephedrine products.

IN THE SENATE OF THE UNITED STATES

Mr. WYDEN introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To direct the Secretary of Health and Human Services to promulgate rules requiring a prescription to dispense pseudoephedrine and pseudoephedrine products.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Meth Lab Elimination
5 Act of 2009”.

6 **SEC. 2. FINDINGS.**

7 Congress finds as follows:

8 (1) Methamphetamine is often manufactured in
9 small-scale clandestine laboratories by methamphet-

1 amine users who obtain pseudoephedrine (PSE), 1
2 of the necessary precursor ingredients, from over-
3 the-counter products.

4 (2) The harmful impacts of methamphetamine
5 are not limited only to the effects the drug has on
6 users, but also include the dangerous effects of the
7 chemicals and wastes involved in making meth-
8 amphetamine. The residual materials are highly
9 toxic and have caused severe injuries to numerous
10 people, particularly children, who have encountered
11 abandoned methamphetamine laboratories or by-
12 products.

13 (3) Many States, such as Oregon, have begun
14 to take steps to restrict access to methamphetamine
15 precursor materials, such as PSE. In Oregon, these
16 steps have had a dramatic impact in reducing the
17 number of clandestine methamphetamine labora-
18 tories.

19 (4) Beginning in October 2004, Oregon re-
20 quired that products containing PSE be sold behind
21 the counter. In April 2005, Oregon further required
22 photo identification and logging for each sale of a
23 PSE product. In July 2006, Oregon became the first
24 State to require a prescription to obtain any PSE
25 product. This final requirement dramatically reduced

1 the number of clandestine methamphetamine labora-
2 tories in Oregon.

3 (5) In 2003, the last year before any restric-
4 tions on the sale of PSE products took effect in Or-
5 egon, the number of methamphetamine laboratories
6 discovered in Oregon was 473. In 2005, after the
7 photo identification and logbook requirements were
8 put in place, the number of laboratories discovered
9 dropped to 192. In 2007, the first full year that the
10 prescription-only requirement was in place, only 18
11 laboratories were discovered.

12 (6) In 2003, the average number of meth-
13 amphetamine laboratories discovered per month in
14 Oregon was 39.4. In 2007, the average number of
15 methamphetamine laboratories discovered per month
16 was 1.5. This constitutes a 96 percent reduction in
17 methamphetamine laboratories following enactment
18 of the prescription-only PSE requirement.

19 (7) Oregon law enforcement officials believe
20 that a Federal law requiring prescriptions to obtain
21 PSE products would reduce the number of clandes-
22 tine methamphetamine laboratories nationwide.

23 **SEC. 3. ADMINISTERING OF PSEUDOEPHEDRINE.**

24 (a) RULEMAKING REQUIREMENTS.—

1 (1) IN GENERAL.—The Secretary of Health and
2 Human Services (referred to in this section as the
3 “Secretary”) shall by regulation establish that any
4 drug (as defined in section 201(g)(1) of the Federal
5 Food, Drug, and Cosmetic Act (21 U.S.C.
6 321(g)(1)) intended for human use that contains
7 pseudoephedrine is a drug subject to section
8 503(b)(1) of such Act (21 U.S.C. 353(b)(1)).

9 (2) DE MINIMUS QUANTITY.—

10 (A) IN GENERAL.—Notwithstanding para-
11 graph (1), the Secretary shall promulgate regu-
12 lations permitting physicians, pharmacists, and
13 other health care professionals, as determined
14 by the Secretary, to dispense a de minimus
15 quantity of a drug containing pseudoephedrine,
16 as such amount is established by the Secretary,
17 without a written or oral prescription of a prac-
18 titioner licensed by law to administer such
19 drug.

20 (B) ADDITIONAL REQUIREMENTS.—The
21 regulations by the Secretary shall require that,
22 in dispensing a de minimus quantity of a drug
23 containing pseudoephedrine pursuant to sub-
24 paragraph (A), an individual shall comply with
25 the seller requirements described in section

1 310(e)(A) of the Controlled Substances Act (21
2 U.S.C. 830(e)(A)).

3 (3) TIMEFRAME FOR ISSUING REGULATIONS.—

4 The Secretary shall issue regulations in accordance
5 with this section not later than 180 days after the
6 date of enactment of this Act.

7 (b) CONFORMING AMENDMENT.—Section 102(45)(A)
8 of the Controlled Substances Act (21 U.S.C. 802(45)(A))
9 is amended—

10 (1) by striking clauses (i) and (ii) and inserting
11 the following:

12 “(i)(I) contains ephedrine or phenyl-
13 propranolamine; and

14 “(II) may be marketed or distributed
15 lawfully in the United States under the
16 Federal Food, Drug, and Cosmetic Act as
17 a nonprescription drug; or

18 “(ii) contains pseudoephedrine.”; and

19 (2) in the matter that precedes subparagraph
20 (B), by striking “clause (i)” and inserting “clauses
21 (i) and (ii)”.