

Legislative Analysis



METHAMPHETAMINE PRECURSORS

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<http://www.house.mi.gov/hfa>

House Bill 4947 as introduced
Sponsor: Rep. Brian BeGole

Analysis available at
<http://www.legislature.mi.gov>

House Bill 4948 as introduced
Sponsor: Rep. Mike McFall

Committee: Judiciary
Complete to 11-3-25

SUMMARY:

House Bill 4947 would amend the Public Health Code to modify restrictions on the retail sale of products that contain ephedrine and pseudoephedrine,¹ as well as provide for new requirements related to tracking the sale of those products. Ephedrine and pseudoephedrine are *precursors* (compounds that, when mixed with another substance, participate in a chemical reaction that creates another compound) that are commonly used in the illicit production of methamphetamine (see “Background”).

Currently, the code prohibits the sale, distribution, delivery, or furnishing of a product that contains 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 through use of the mail, internet, telephone, or other electronic means. This general prohibition does *not* apply, however, to any of the following:

- A pediatric product primarily intended for administration to children under 12 years of age according to label instructions.
- A product containing pseudoephedrine that is in a liquid form if pseudoephedrine is not the only active ingredient.
- A product that the State Board of Pharmacy, upon application of the manufacturer or certification by the United States Drug Enforcement Administration as inconvertible, exempts from these provisions because the product has been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine.
- A person who dispenses a product described above pursuant to a prescription.
- A person who, in the course of business, sells or distributes a product described above to either of the following:
 - A person licensed by the state to manufacture, deliver, dispense, or possess with intent to manufacture or deliver a controlled substance, prescription drug, or other drug.
 - A person who orders products described above for retail sale pursuant to a license issued under the General Sales Tax Act.²

¹ Ephedrine is a stimulant used to prevent low blood pressure (hypotension) during anesthesia and is typically administered intravenously. Pseudoephedrine, often referred to by its brand name Sudafed® (in which it is the active ingredient), is a nasal decongestant commonly used to treat allergies and colds.

² <https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-Act-167-of-1933>

- A manufacturer or distributor who donates product samples to a nonprofit charitable organization that has tax exempt status pursuant to section 501(c)(3) of the federal Internal Revenue Code,³ a licensed practitioner, or a governmental entity.

A person who violates this general prohibition is currently guilty of a felony punishable by imprisonment for up to four years, a fine of up to \$5,000, or both.

Under the bill, a person would be allowed to offer a product described above for retail sale, *as long as* the seller ensures that the product is delivered or shipped directly to the purchaser and that the retail sale is conducted in compliance with 21 USC 830⁴ and any other applicable federal law. A retailer who conducts a sale under section 17766f of the code⁵ would still be required to electronically submit certain information to the National Precursor Log Exchange (NPLEx). The bill would not change the current penalties for a violation of these provisions.

Beginning June 1, 2026, the bill would also require a manufacturer of a product that contains any compound, mixture, or preparation containing any detectable quantity of ephedrine or pseudoephedrine that is sold in Michigan to participate in a national, real-time logging system (i.e., NPLEx) that tracks the retail sales of the substances described above.

MCL 333.7340 and 333.7340a

House Bill 4948 would amend the Code of Criminal Procedure to modify language in the sentencing guidelines that corresponds to the felony referenced in House Bill 4947. Specifically, the code states that the “sale, distribution, or delivery of product containing ephedrine or pseudoephedrine by mail, internet, or telephone” is a Class F controlled substance felony punishable by a maximum term of imprisonment of four years. The bill would retain the category, class, and maximum sentence provisions, but would change the description to “failure to deliver or ship product containing ephedrine or pseudoephedrine directly to purchaser or comply with applicable federal law.”

The bill cannot take effect unless House Bill 4947 is also enacted.

MCL 777.13m

BACKGROUND:

Under section 7214 of the Public Health Code, methamphetamine (commonly referred to as “meth”) is a schedule II controlled substance, which means that it presents a high potential for abuse, has minimal medical benefit, and can lead to serious psychological and physical dependence. Because many common chemicals (including lithium, alcohol, and sodium hydroxide) and household products (coffee filters, funnels, and aluminum foil) can be used in the production of methamphetamine, a wide variety of illicit production tactics have been developed, ranging from the “one pot” method (combining various chemicals in a small one-reaction container, such as a water bottle) to produce powder variants (nicknamed “speed” or “chalk”) to large-scale operations in homes or warehouses that mass produce crystal

³ <https://www.law.cornell.edu/uscode/text/26/501>

⁴ <https://www.law.cornell.edu/uscode/text/21/830>

⁵ <https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-333-17766f>

methamphetamine (commonly referred to as “crystal meth,” “ice,” or “glass”).⁶ The unlawful manufacture of methamphetamine presents significant health and safety concerns to the surrounding area, as it can result in explosions that level buildings and fires that release toxic chemicals into the environment and injure or kill bystanders.

Ephedrine and pseudoephedrine

In general, powder methamphetamine cannot be produced without either ephedrine or pseudoephedrine, the latter of which is the active ingredient in many over-the-counter cold and allergy medications (most commonly Sudafed® and its derivatives). Since the passage of the federal Combat Methamphetamine Epidemic Act of 2005,⁷ Michigan has restricted the sale of medications containing ephedrine and pseudoephedrine by requiring pharmacies to secure these medications behind the counter or in a locked case, add anti-theft devices inside the product packaging, and keep at least a six-month record of customers who purchase these types of medications. The 2005 federal law also set purchase limits of 3.6 grams of ephedrine or pseudoephedrine in a single calendar day *or* 9.0 grams of ephedrine or pseudoephedrine within a 30-day period.⁸ The daily limit approximately amounts to the following:

- One 15-count box of a 24-hour allergy medication (15 pills x 240 mg per pill).
- Three 10-count boxes of a 12-hour cold medication (30 pills x 120 mg per pill).
- Six 20-count boxes of a four- to six-hour cold medication (120 pills x 30 mg per pill).

While this approach was initially successful in reducing local methamphetamine production, the emergence of “smurfing”—the practice of large groups each purchasing relatively small quantities of products containing ephedrine or pseudoephedrine from multiple retailers and then selling the products to methamphetamine producers—is believed to have contributed to an increase in the number of methamphetamine lab seizures in Michigan from the mid-2000s to the late 2010s.

National Precursor Log Exchange

To combat smurfing, the legislature enacted 2011 PAs 84 to 87, which created new penalties for possessing or purchasing precursors and required Michigan pharmacies and drug retailers to begin tracking the sale of any medication containing pseudoephedrine by gathering and submitting identifying information about a purchaser to the National Precursor Log Exchange (NPLEx).⁹ Developed by Appriss Incorporated and operated by the National Association of Drug Diversion Investigators, NPLEx is a real-time electronic logging system that is used to track sales of methamphetamine precursors (namely ephedrine and pseudoephedrine) throughout the United States. The system facilitates the cross-referencing of a given sale to

⁶ In 2024, the Michigan State Police (MSP) reported that, while local production of powder methamphetamine still occurs in the state, it has become less prevalent than crystal methamphetamine, which is typically produced elsewhere and then trafficked into Michigan. The 2024 Methamphetamine Reporting Act legislative report is available [here](#).

⁷ The Combat Methamphetamine Epidemic Act of 2005 was enacted as Title VII of the USA Patriot Improvement and Reauthorization Act of 2005, [Public Law 109-177](#).

⁸ These limits were subsequently added to [MCL 333.17766c](#) by 2011 PA 84. Subject to certain exceptions, the statute already prohibited (and continues to prohibit) the possession of more than 12 grams of ephedrine or pseudoephedrine. Violations of the daily or monthly limits are classified as misdemeanors punishable by imprisonment for up to 93 days, a fine of up to \$500, or both, while a violation of the 12-gram limit is a felony punishable by imprisonment for up to five years, a fine of up to \$5,000, or both.

⁹ 2011 PA 84 also amended [MCL 333.17766f](#) to provide for a \$500 civil fine (per violation) for sellers of products containing ephedrine or pseudoephedrine who knowingly sell in excess of the daily or monthly limits.

other precursor purchases to determine if it is within the lawful limit, can block sales in excess of that limit, and records blocked sales in the database.

Law enforcement agencies can use the information from NPLeX to identify purchase patterns that are consistent with those of methamphetamine manufacturers. In 2024, there were 698 registered NPLeX users in Michigan and more than 30 other states. While NPLeX is useful for identifying domestic purchases of precursors that are most commonly used in small-scale methamphetamine production, the increasing prevalence of crystal methamphetamine trafficked from other countries (coupled with the fact that the preferred method of mass producing crystal methamphetamine does *not* require pseudoephedrine) has introduced new tracking challenges for law enforcement agencies, as the NPLeX database does not include nondomestic purchases and cannot account for substances that it does not track.

Other anti-smurfing measures

In 2014, the legislature enacted a 2014 PAs 216, 217, 218, 275, 276, and 300 to combat smurfing and other practices intended to evade precursor tracking systems.¹⁰ Among other provisions, the new laws prohibited the purchase or possession of ephedrine or pseudoephedrine knowing (or having reason to know) that it would be used to manufacture methamphetamine, as well as the solicitation of another person to purchase either substance for that purpose. These changes also required MSP to report on certain methamphetamine-related data, required NPLeX to generate a stop-sale alert to prevent the unlawful sale of a precursor, and added smurfing to the list of offenses that constitute racketeering.

Subsequently, 2016 PAs 125 to 128 were enacted to provide for additional penalties for smurfing and other evasive purchasing practices.¹¹ The new laws added criminal penalties for *attempting* to solicit another person to purchase a precursor knowing that it is to be used to manufacture methamphetamine, required the NPLeX system to generate a stop-sale alert for a period of five years for a person convicted of attempted solicitation, and provided for enhanced penalties for the manufacture of methamphetamine within 1,000 feet of a library or K-12 school property.

FISCAL IMPACT:

House Bill 4947 would have an indeterminate fiscal impact on the state and on local units of government. Under the bill, a person would no longer be guilty of a felony for selling, distributing, delivering, or otherwise furnishing a product containing ephedrine or pseudoephedrine, or a salt or optical isomer of ephedrine or pseudoephedrine, through use of the mail, internet, telephone, or other electronic means. Under the bill, a person could offer these products for retail sale but would be required to ensure that the product is delivered or shipped directly to the purchaser, and the sale would be required to comply with federal laws. A person who violates the new provisions also would be guilty of a felony punishable by imprisonment for up to four years or a fine of up to \$5,000, or both. It is not known if the new provisions would result in an increase or a decrease in felony convictions and penal fines. An increase in felony convictions would result in increased costs related to state prisons and parole and felony probation supervision. In fiscal year 2024, the average cost of prison incarceration in a state facility was roughly \$46,200 per prisoner, a figure that includes various fixed

¹⁰ <https://www.legislature.mi.gov/documents/2013-2014/billanalysis/House/pdf/2013-HLA-5363-8E5AD14A.pdf>

¹¹ <https://www.legislature.mi.gov/documents/2015-2016/billanalysis/House/pdf/2015-HLA-4769-D6D23954.pdf>

administrative and operational costs. State costs for parole and felony probation supervision averaged about \$5,500 per supervised offender in the same year. Those costs are financed with state general fund/general purpose revenue. A decrease in felony convictions would result in a savings to the state. Any increase or decrease in penal fine revenue would affect funding for public and county law libraries, which are the constitutionally designated recipients of those revenues.

Under the bill, a manufacturer of a product containing ephedrine or pseudoephedrine that is sold in this state would be required to participate in a national, real-time logging system that tracks the retail sales of the substances. A person who violates this provision would be guilty of misdemeanor punishable by a fine of up to \$500. New misdemeanor convictions resulting in an increase in fine revenue would increase funding for public and county law libraries.

The fiscal impact on local court systems would depend on how provisions of the bill affected court caseloads and related administrative costs. Because there is no practical way to determine the number of violations that would occur under provisions of the bill, an estimate of the amount of costs or savings related to state prisons, amount of increased or decreased fine revenue for libraries, or costs to local courts cannot be made.

House Bill 4948 is a companion bill to House Bill 4947 and would amend the sentencing guidelines chapter of the Code of Criminal Procedure to eliminate the guideline for sale, distribution, or delivery of the product by mail, internet, or telephone, and add a guideline for failure to deliver or ship the product directly to the purchaser or for failure to comply with applicable federal law. The classification and statutory maximum would remain the same at a Class F felony punishable by a statutory maximum of four years. House Bill 4948 would not have a direct fiscal impact on the state or on local units of government.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.