

State of Wisconsin



2017 Assembly Bill 306

Date of enactment: **November 30, 2017**

Date of publication*: **December 1, 2017**

2017 WISCONSIN ACT 98

AN ACT *to renumber and amend* 961.23 (4), 961.235 (1) and 961.235 (3); *to amend* 961.235 (2); and *to create* 961.23 (4) (b), 961.235 (1) (b) and (c) and 961.235 (3m), (4), (5), (7) and (8) of the statutes; **relating to:** tracking the sale of pseudoephedrine products.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 961.23 (4) of the statutes is renumbered 961.23 (4) (a) and amended to read:

961.23 (4) (a) Any person purchasing such a substance that is not a pseudoephedrine product shall, at the time of purchase, present to the seller that person's correct name, and address, ~~and, if the person is purchasing a pseudoephedrine product, an identification card containing the person's photograph.~~ The seller shall record the name and address and the name and quantity of the product sold. The purchaser and ~~either the seller or, if the substance is a pseudoephedrine product and is being sold by a person who is not a registered pharmacist, the pharmacist supervising the seller~~ shall sign the record of ~~this~~ the transaction. The giving of a false name or false address by the purchaser shall be prima facie evidence of a violation of s. 961.43 (1) (a).

SECTION 2. 961.23 (4) (b) of the statutes is created to read:

961.23 (4) (b) Any person purchasing such a substance that is a pseudoephedrine product shall, at the time of purchase, present to the seller that person's correct name, address, and an identification card containing the person's photograph. The seller shall record the name, date of birth, and address of the purchaser; the name and

quantity measured in grams of pseudoephedrine contained in the product purchased; the date and time purchased; the purchaser identification type and number, such as driver's license state and number; and the name of the seller or, if the pseudoephedrine product is being sold by a person who is not a registered pharmacist, the name of the pharmacist supervising the seller. The purchaser shall sign the record of the transaction. The giving of a false name or false address by the purchaser shall be prima facie evidence of a violation of s. 961.43 (1) (a).

SECTION 3. 961.235 (1) of the statutes is renumbered 961.235 (1) (intro.) and amended to read:

961.235 (1) (intro.) In this section, ~~"records;~~

(a) "Records of pseudoephedrine sales" means records required under s. 961.23 (4) (b) with respect to the sale of a pseudoephedrine product.

SECTION 4. 961.235 (1) (b) and (c) of the statutes are created to read:

961.235 (1) (b) "Stop sale alert" means a real-time notification to a seller of pseudoephedrine products that completion of the sale would result in the purchaser violating the pseudoephedrine quantity limits set forth in s. 961.23 (6).

(c) "System" means the National Precursor Log Exchange (NPLEx) system, which is an electronic pseudoephedrine sales tracking system that is capable of

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

generating stop sale alerts, and that is installed, operated, and maintained free of any one-time or recurring charge to the seller or to the state.

SECTION 5. 961.235 (2) of the statutes is amended to read:

961.235 (2) Records of pseudoephedrine sales ~~may~~ **shall** be kept in ~~either a paper or~~ electronic format and shall be maintained by the pharmacy for at least 2 years. Except as provided in ~~sub. (3)~~ **subs. (6) and (7)**, only a pharmacist may have access to records of pseudoephedrine sales and information contained in those records.

SECTION 6. 961.235 (3) of the statutes is renumbered 961.235 (6) and amended to read:

961.235 (6) A pharmacist shall make records required under s. 961.23 (4) ~~(b)~~ available to a law enforcement officer who requests them. Law enforcement officers may make those records available to other persons or redisclose information from those records to other persons only in connection with a criminal investigation or prosecution under this chapter.

SECTION 7. 961.235 (3m), (4), (5), (7) and (8) of the statutes are created to read:

961.235 (3m) Except as provided in sub. (4), a seller shall electronically submit records of pseudoephedrine sales to the system before completing a sale of a nonprescription pseudoephedrine product.

(4) If a seller who is attempting to complete a sale of a nonprescription pseudoephedrine product experiences mechanical or electronic failure of the system and is unable to comply with the requirement in sub. (3m), the seller may, subject to the requirement under s. 961.23 (4)

(b), complete the sale without complying with the requirement under sub. (3m). The seller shall maintain a written log or an alternative electronic record-keeping mechanism until such time as the seller is able to comply with the requirement.

(5) A seller may not complete a sale of a nonprescription pseudoephedrine product if the system generates a stop sale alert unless the seller has a reasonable fear of imminent bodily harm if he or she does not complete the sale. The seller may use the system's override function to complete the sale if he or she has a reasonable fear of imminent bodily harm.

(7) The system shall provide real-time access through an online portal to records of pseudoephedrine sales submitted under sub. (3m) to the department of justice and to law enforcement officers in the state. Law enforcement officers may make those records available to other persons or redisclose information from those records to other persons only in connection with a criminal investigation or prosecution under this chapter.

(8) Absent negligence, wantonness, recklessness, or deliberate misconduct, any seller utilizing the system in accordance with this section shall not be civilly liable as a result of any act or omission in carrying out the duties required by this section and shall be immune from liability to any third party unless the seller has violated any provision of this section in relation to a claim brought for such a violation.

SECTION 8. Effective date.

(1) This act takes effect on the first day of the 6th month beginning after publication.