



## 2017 ASSEMBLY BILL 306

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

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*Analysis by the Legislative Reference Bureau*

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

5             **SECTION 1.** 961.23 (4) of the statutes is renumbered 961.23 (4) (a) and amended  
6             to read:  
7             961.23 (4) (a) Any person purchasing such a substance that is not a  
8             pseudoephedrine product shall, at the time of purchase, present to the seller that  
9             person's correct name, and address, ~~and, if the person is purchasing a~~  
10            ~~pseudoephedrine product, an identification card containing the person's photograph.~~

**ASSEMBLY BILL 306****SECTION 1**

1 The seller shall record the name and address and the name and quantity of the  
2 product sold. The purchaser and ~~either the seller or, if the substance is a~~  
3 ~~pseudoephedrine product and is being sold by a person who is not a registered~~  
4 ~~pharmacist, the pharmacist supervising the seller shall sign the record of this the~~  
5 transaction. The giving of a false name or false address by the purchaser shall be  
6 prima facie evidence of a violation of s. 961.43 (1) (a).

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

8 961.23 (4) (b) Any person purchasing such a substance that is a  
9 pseudoephedrine product shall, at the time of purchase, present to the seller that  
10 person's correct name, address, and an identification card containing the person's  
11 photograph. The seller shall record the name, date of birth, and address of the  
12 purchaser; the name and quantity measured in grams of pseudoephedrine contained  
13 in the product purchased; the date and time purchased; the purchaser identification  
14 type and number, such as driver's license state and number; and the name of the  
15 seller or, if the pseudoephedrine product is being sold by a person who is not a  
16 registered pharmacist, the name of the pharmacist supervising the seller. The  
17 purchaser shall sign the record of the transaction. The giving of a false name or false  
18 address by the purchaser shall be prima facie evidence of a violation of s. 961.43 (1)  
19 (a).

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

22 961.235 (1) (intro.) In this section, "records:

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

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

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

4           (c) “System” means the National Precursor Log Exchange (NPLEx) system,  
5 which is an electronic pseudoephedrine sales tracking system that is capable of  
6 generating stop sale alerts, and that is installed, operated, and maintained free of  
7 any one-time or recurring charge to the seller or to the state.

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

9           961.235 (2) Records of pseudoephedrine sales ~~may~~ shall be kept in either a  
10 paper or electronic format and shall be maintained by the pharmacy for at least 2  
11 years. Except as provided in ~~sub. (3)~~ subs. (6) and (7), only a pharmacist may have  
12 access to records of pseudoephedrine sales and information contained in those  
13 records.

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

16           961.235 (6) A pharmacist shall make records required under s. 961.23 (4) (b)  
17 available to a law enforcement officer who requests them. Law enforcement officers  
18 may make those records available to other persons or redisclose information from  
19 those records to other persons only in connection with a criminal investigation or  
20 prosecution under this chapter.

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

22           961.235 (3m) Except as provided in sub. (4), a seller shall electronically submit  
23 records of pseudoephedrine sales to the system before completing a sale of a  
24 nonprescription pseudoephedrine product.

**ASSEMBLY BILL 306****SECTION 7**

1           (4) If a seller who is attempting to complete a sale of a nonprescription  
2 pseudoephedrine product experiences mechanical or electronic failure of the system  
3 and is unable to comply with the requirement in sub. (3m), the seller may, subject to  
4 the requirement under s. 961.23 (4) (b), complete the sale without complying with the  
5 requirement under sub. (3m). The seller shall maintain a written log or an  
6 alternative electronic record-keeping mechanism until such time as the seller is able  
7 to comply with the requirement.

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

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

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

**SECTION 8. Effective date.**

