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## Health Care & Wellness Committee

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### HB 2454

**Brief Description:** Concerning ephedrine, pseudoephedrine, and phenylpropranolamine.

**Sponsors:** Representatives Campbell, Morrell, McCune and Chase.

#### Brief Summary of Bill

- Makes methamphetamine precursors controlled substances.
- Provides an affirmative defense for persons who obtained methamphetamine precursors lawfully prior to January 1, 2011.

**Hearing Date:** 1/14/10

**Staff:** Jim Morishima (786-7191).

#### **Background:**

##### Controlled Substances

Controlled substances are substances whose possession is regulated by law. Controlled substances are listed in the Uniform Controlled Substances Act in five "schedules." The Board of Pharmacy (Board) may add, delete, or re-classify controlled substances by rule. A person who possesses a controlled substance without a prescription is guilty of a class C felony with a seriousness level of I on the drug grid (unless the substance is marijuana, in which case the offense is a misdemeanor).

##### Methamphetamine Precursor Regulation

Methamphetamine is a highly addictive stimulant that affects the central nervous system. Certain drugs that may be purchased without prescription, so-called "methamphetamine precursors," may be used to manufacture methamphetamine illegally; e.g., ephedrine, pseudoephedrine, or phenylpropranolamine.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

There are therefore several restrictions on the purchase and sale of methamphetamine precursors. For example, products that contain methamphetamine precursors may only be sold to persons 18 years of age or older and only after presentation of photographic identification. Products containing methamphetamine precursors must be kept in a central location not accessible to customers without assistance. A retailer may not sell in a single transaction more than two packages of products containing methamphetamine precursors or a single package containing more than three grams of methamphetamine precursors. Similarly, no person may possess more than 15 grams of methamphetamine precursors.

Retailers must keep records of methamphetamine precursor purchases; the retailers must make these records available to the Board, law enforcement, and the courts. Similarly, wholesalers must maintain records of all precursor (including methamphetamine precursors) purchases; wholesalers must make these records available to the Board.

### **Summary of Bill:**

#### Controlled Substances

The Board must adopt rules to classify methamphetamine precursors as legend drugs (i.e., drugs that are prescription only or for use by practitioners only) and Schedule III controlled substances. The rules must take effect on January 1, 2011.

The Board may exempt products by rule that are formulated to effectively prevent conversion of the active ingredient into methamphetamine. The Board must collaborate with the Forensic Laboratory Services Bureau (Bureau) of the State Patrol during the rule-making process. If the Bureau informs the Board that the exempted product does not effectively prevent conversion of the active ingredient into methamphetamine, the Board may summarily suspend the exemption pending permanent rule-making to revoke the exemption.

Records of transactions involving methamphetamine precursors are subject to inspection by law enforcement agencies. A person required to maintain such records must forward to a law enforcement agency upon request.

It is an affirmative defense to a charge of unlawfully possessing a methamphetamine precursor without a prescription that the person:

- obtained the methamphetamine precursor lawfully prior to January 1, 2011;
- possessed no more than six grams of the methamphetamine precursor; and
- possessed the methamphetamine precursor under circumstances that are consistent with typical medicinal or household use, as indicated by factors that include storage location, purchase date, possession of product in different strengths, brands, types, or purposes, and expiration dates.

#### Methamphetamine Precursor Regulation

Provisions relating to the purchase and sale of methamphetamine precursors are modified or eliminated:

- Provisions allowing non-pharmacies to sell methamphetamine precursors are eliminated.

- Restrictions on the sale, purchase, and possession of methamphetamine precursors are repealed.
- Recordkeeping requirements relating to the retail sale of methamphetamine precursors are repealed.
- Manufacturers of precursors must make their sales records available to law enforcement officials.

**Appropriation:** None.

**Fiscal Note:** Requested 1/05/10.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.