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## Please Oppose House Bill 2128

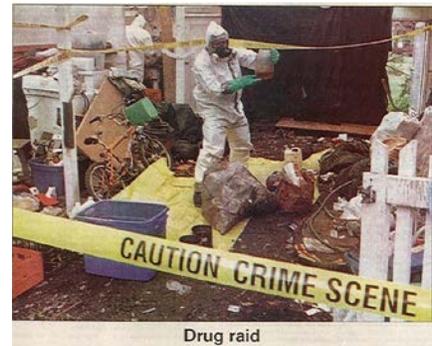
### HB 2128 Will Set Oregon Up for a Resurgence in Local Toxic Meth Labs

In the late 1990's and early 2000's, Oregon experienced an epidemic of local toxic meth labs, with devastating impacts drug endangered children, the environment, property owners, law enforcement, and many others. Regional drug enforcement teams became nearly full-time hazardous material clean-up crews.

The Oregon legislature responded in 2001 and 2003 with restrictions on pseudoephedrine (PSE), the key ingredient needed to make meth in nearly all local toxic meth labs. Those restrictions helped dramatically reduce meth labs in Oregon, but we found a big hole in our system of logging and tracking PSE sales: "Group smurfing."

Group smurfing is where numerous people each purchase PSE for later resale on the local black market. That's how meth cooks got around our system prior to 2006, and still today get around PSE sales tracking systems, including the industry-touted system known as [NPLEx](#). The meth cooks simply pay more for each box of PSE on the local black market than each smurfer paid at the store, giving each smurfer a little profit, and providing meth cooks with the key ingredient they seek.

So in 2005, after a big [battle](#) with the pharmaceutical industry, the Oregon legislature passed a [bill](#) to return PSE to a prescription drug, which is what it was prior to 1976, and prior to the meth lab epidemic. That action eliminated group smurfing, and virtually eradicated meth labs in Oregon, years before any other state was able to do likewise.

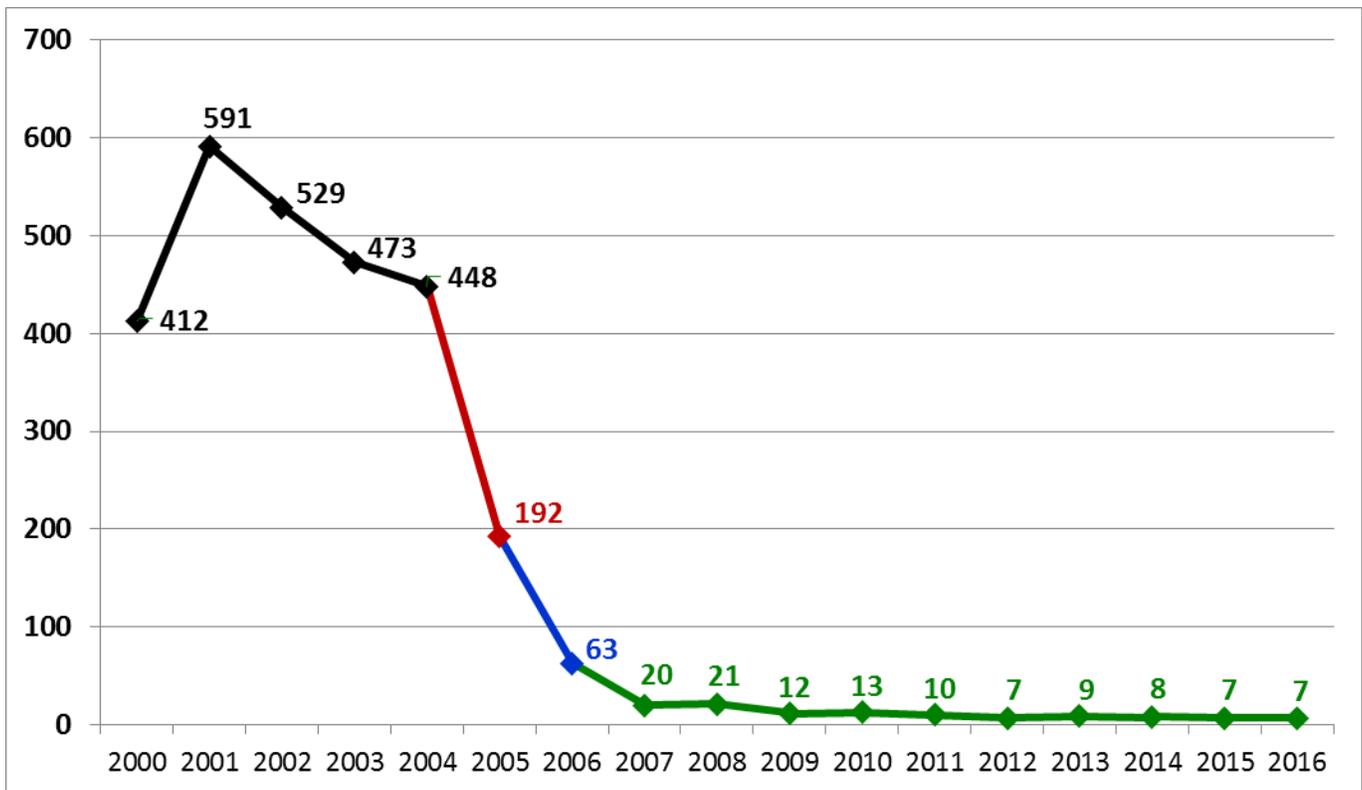


HB 2128 would undo that [bill](#), and leave Oregon open to a resurgence of group smurfing and local toxic meth labs, once the hydraulics of meth change again, which they will.

Attached are updated Oregon meth lab incident statistics, as well as responses to many of the assertions made by the proponents of HB 2128.

Please oppose House Bill 2128. Oregon's drug endangered children, environment, and law enforcement deserve better.

## Pre and Post Pseudoephedrine Control Oregon Meth Lab Incident Statistics



**NOTES:**

1. Data source: Oregon State Police (OSP), Oregon Department of Justice (DOJ), and Oregon High Intensity Drug Tracking Area (HIDTA). The 2016 number is as of January 3, 2017, and therefore possibly subject to change. Totals include all three categories of meth lab incidents, as reported to the Western States Information Network (WSIN) and the El Paso Intelligence Center (EPIC): Operational/Non-Cooking, Exploded, and Boxed/Dismantled.
2. On October 15, 2004, the Oregon Board of Pharmacy (BOP) adopted a rule requiring pseudoephedrine (PSE) products, other than certain liquids and gel caps, be kept behind the counter and requiring picture ID for each sale. The rule went into effect on November 15, 2004.
3. On April 6, 2005, the BOP adopted a rule requiring PSE products be kept behind the pharmacy counter and requiring picture ID and logging for each sale. The rule went into effect on May 14, 2005.
4. Following the passage of [2005 Oregon House Bill 2485](#), on April 5, 2006, the BOP adopted a rule requiring a prescription for all PSE products. The rule went into effect on July 1, 2006.

Questions? Contact AOC Legal Counsel [Rob Bovett](#)

Last updated: February 28, 2017

## HB 2128 - Ten Points to Consider

### 1. Pseudoephedrine (PSE) is the necessary ingredient in nearly all local toxic meth labs

There are two basic methods commonly used to cook meth locally. PSE is the key ingredient for both. See [Meth Epidemic Solutions](#), 82 North Dakota Law Review 1195 (2006).

### 2. The hydraulics of meth

The incidence of local toxic meth labs is largely driven by four meth hydraulics, each of which can act independently of the others - also known as the “Four P’s” of meth:

- Purity: The percentage of meth as compared to diluents and other impurities.
- Potency: The percentage of d-meth as compared to l-meth.
- Price: The average cost of meth on the street.
- Poundage: The volume of supply of meth on the street.

Right now, the hydraulics in many parts of the United States, including Oregon, are bad for meth addiction, and have been for a few years - meaning meth on the street right now is pure, potent, cheap, and plentiful. The source of nearly all meth on the West Coast is from super labs operated in Mexico that are fed by bulk precursors smuggled from Asia. That means there is currently little incentive to locally cook meth in many parts of the United States, including Oregon. However, history has proven time and again that those hydraulics will change - it’s not a matter of “if” - it’s a matter of “when.”

### 3. PSE should never have been made a non-prescription drug in the first place

Prior to 1976, PSE was a prescription drug in the United States. But, at the request of the pharmaceutical industry, and against the advice of the DEA, FDA authorized PSE for over-the-counter sale. In addition to concerns about it’s being used to locally manufacture meth, PSE is a vasoconstrictor and, as such, is contraindicated for millions of Americans, such as those with high blood pressure.

### 4. PSE doesn’t cure anything

PSE doesn’t cure anything. It doesn't cure cancer. It doesn't even cure the common cold. It only makes some people feel a bit better by addressing the sniffles, and there are plenty of alternatives.

### 5. Returning PSE to a prescription drug was an enormous battle in Oregon

Despite all of the tragedy inflicted by local toxic meth labs a decade ago (*see* the attached chart showing annual meth lab incidents in Oregon from 2000 to the present), getting to [2005 HB 2485](#), and



returning PSE to a prescription drug, was an enormous [battle](#) with the pharmaceutical industry. It took three legislative sessions.

If you undo that legislation by way of HB 2128, once the hydraulics of meth change again, which they will, there will be a resurgence of local toxic meth labs in Oregon, and it will again be a huge [battle](#) just to get back to where we are today. Requiring a prescription for PSE, as it was prior to 1976, eliminates group smurfing. Law enforcement labor intensive PSE tracking systems, even with every imaginable bell and whistle added, as has been done in states like Indiana, fails to do the same.

## 6. Returning PSE to a prescription was only about getting rid of local toxic meth labs

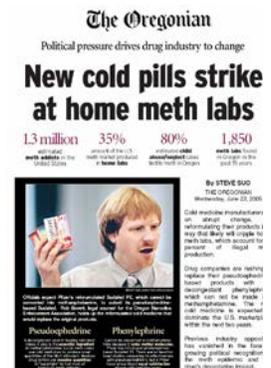
Oregon continues to have a huge meth addiction problem. The pharmaceutical industry likes to point that out when opposing legislation in other states that would return PSE to a prescription drug, like Oregon did in 2006 and Mississippi did in 2010. But returning PSE to a prescription drug is not about getting rid of the meth addiction problem - it's about getting rid of local toxic meth labs. Nothing more. Nothing less.



But there is a bonus: When the hydraulics of [Drug Trafficking Organization](#) (DTO) meth again change to become weaker, less plentiful, or more costly, Oregon sees a significant [reduction](#) in our meth epidemic, but only because we prevent group smurfing and a resurgence of local toxic meth labs, which requires that we maintain PSE as a prescription drug. Otherwise, once the meth from the DTOs becomes weaker, less plentiful, or more costly again, Oregon would experience a resurgence of group smurfing and local toxic meth labs. HB 2128 would set Oregon up for just that.

## 7. There are only a handful of products that still contain PSE

There are only a small number of remaining products that even contain PSE. As of 2010, that number was [15](#). The number may be even lower today. Meanwhile, the over-the-counter pharmacy and grocery store shelves are full of products to treat the symptoms of allergies and the common cold.



## 8. Passage of HB 2128 will set Oregon up for a resurgence of local toxic meth labs

All we have to do is look currently to other parts of the United States, where the hydraulics of meth are different, and where they rely on a PSE tracking system, most notably the industry promoted [NPLEx](#) system. For example, in the Midwest:

- **Indiana**, which uses the [NPLEx](#) system, had **983 meth lab incidents** last year.
- **Ohio**, another [NPLEx](#) state, had **over 100 incidents of drug endangered children affected by local toxic meth labs** last year.

Those are **not** signs of success.

## 9. The NAMSDL report

Some supporters of HB 2128 have pointed to a recent study conducted by the National Alliance of Model State Drug Laws (NAMSDL). The NAMSDL report is in conflict with a [Government Accountability Office \(GAO\) study](#). In June of 2015, when NAMSDL inquired of Rob Bovett, the author of Oregon's PSE legislation in 2001, 2003, and 2005, about their possible study, Mr Bovett informed NAMSDL:

*"I'm happy to help in any way I can. However, I seriously question the utility of doing such a study at this time. At best, it would confirm the results of the recent GAO analysis. At worst, it would further fuel the pharmaceutical industry's misinformation and propaganda machine.*

*Let me explain.*

*First, returning pseudoephedrine (PSE) to a prescription drug has nothing to do with reducing meth use, drug arrests, treatment admissions, ER admissions, crime rates, or any such thing. So showing a negative correlation or non-correlation can serve no purpose but to feed the pharmaceutical industry with more backing for straw-man arguments. I have less than no desire to help them in that regard. They overpower us consistently. We don't need to assist them further. I would strongly discourage NAMSDL from providing more fodder.*

*The purpose of returning PSE to a prescription drug is to reduce or eliminate the incidence of domestic meth labs. Nothing more. Nothing less.*

*But the demand for domestic meth labs is not static. It is dependent on the localized demand for meth, and the localized quality of meth. By quality, I mean four primary hydraulics, what I call the "four P's" of meth, namely Price, Potency, Purity, and Poundage.*

*Right now, on the West Coast, meth supplied by the Drug Trafficking Organizations (DTOs) is cheap, pure, potent, and plentiful. Hence, there is little reason for addicts to cook their own meth. So a study conducted today would confirm that Oregon has virtually no domestic meth labs (we're up to 2 so far this year), but has a continuing significant meth problem by all other metrics. Similar stories could be told right now about our neighboring states. Thus, a study conducted today could readily conclude that returning PSE to a prescription drug accomplished nothing. But nothing could be further from the truth. Returning PSE to a prescription drug enabled Oregon to get rid of its domestic meth labs well before our neighbors, and insulates Oregon from a resurgence in domestic meth labs once the hydraulics of the four P's change, which they inevitably will.*

*With regard to the rest of the Nation, the situation varies. Again, I think it's dependent on how the localized demand, and four P's look, in any area. I'll defer to my colleagues in other parts of the Nation on that, although I've copied in two of the usual suspects I've worked with on this issue over the years.*

*If you'd like to chat, let me know some good dates and times, and I'll find what works on my calendar."*

NAMSDL never contacted Mr Bovett again.

So here we are today. Mr Bovett stands by everything he told NAMSDL in June of 2015, and what he wrote in numerous Op Eds, including one in the [New York Times](#). Further, his fears were in fact realized: The pharmaceutical industry has been using the NAMSDL report to assist their efforts to stop states like Indiana from following Oregon's lead, even in the face of Indiana still suffering from hundreds of local toxic meth lab incidents each year. And now we have HB 2128 in Oregon.

## **10. The success of other states around Oregon is due to meth hydraulics, not PSE tracking**

The success of the other states around Oregon in reducing local toxic meth lab incidents occurred only after meth hydraulics changed (in other words, DTO meth became pure, potent, cheap, and plentiful again). Oregon had success years before that. It's easy to have success when the demand for locally produced meth is near zero.

As proven by Indiana and other Midwest states that operate the industry promoted [NPLEx](#) system, that "success" will not be achieved, or will falter, once those hydraulics change again on the West Coast, which they will.

One might ask: *"Why does Oregon have to be different? What makes Oregon different?"*

Because Oregon actually solved the problem, and did not rely upon a law enforcement labor intensive band-aid that doesn't stop group smurfing of PSE.

### **Final Thoughts**

[HB 2128](#), even with the [Dash-1](#) amendments, would move Oregon from one of the top two anti-meth lab states in our Nation to one of the weakest, since law enforcement would not even have ready access to the database, as is the case in other [NPLEx](#) states. Instead, law enforcement would be required to get a court order based on probable cause each and every time. This would make the database virtually useless, even if Oregon law enforcement had the resources to be reactive, which is what [NPLEx](#) states rely upon.

We should never want to return to the time when Oregon law enforcement officers regularly had to put on chemical suits and self-contained breathing apparatus to intervene in local toxic meth labs within the reach of drug endangered children, in the context of family addiction and dysfunction.

The virtual elimination of meth labs in Oregon, and the insurance that law continues to provide to Oregon when the hydraulics of meth change again, was one of the single greatest steps toward increasing child safety ever achieved by a collaborative effort. Elimination of local meth labs eliminated the toxic environments from those Oregon homes. While the ups and downs of parental addiction has always been a huge concern in child welfare around the country, the added issue of toxic meth labs in homes made the environment in which the child was living seriously dangerous around the clock. The elimination of those chemicals and waste products created a safer environment for children, even if their parents are still using meth.

### **Please Oppose House Bill 2128.**

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