

## **BILL ANALYSIS**

Senate Research Center  
82R4032 GCB-F

S.B. 913  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Under current state and federal law, the amount of nonprescription ephedrine, pseudoephedrine, or norpseudoephedrine (PSE) that can be purchased is limited to prevent the diversion of PSE into methamphetamine production. The paper logs currently used by business establishments are no longer an effective tool to enforce those limits statewide and across state lines. A multi-state PSE electronic tracking/blocking system is a solution that will effectively stop individuals from purchasing legal limits of PSE and accumulating illegal quantities.

S.B. 913 requires a business establishment, before completing an over-the-counter sale of a product containing ephedrine, pseudoephedrine, or norpseudoephedrine, to transmit the record to a real-time electronic logging system. The administration of the electronic logging system is free of charge to business establishments and law enforcement and law enforcement agencies, and their personnel will have the sole right of access to the database.

As proposed, S.B. 913 amends current law relating to the transmission of records regarding over-the-counter sales of ephedrine, pseudoephedrine, and norpseudoephedrine and a person's civil liability for certain acts arising from the sale of those products.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 486.014, Health and Safety Code, as follows:

Sec. 486.014. New heading: PREREQUISITES TO AND RESTRICTIONS ON SALE.

(a) Creates this subsection from existing text. Requires a business establishment that engages in over-the-counter sales of a product containing ephedrine, pseudoephedrine, or norpseudoephedrine, before completing those sales, to:

(1) require the person making the purchase to:

(A) display a driver's license or other form of government-issued identification containing the person's photograph and indicating that the person is 16 years of age or older; and

(B) sign for the purchase;

(2) make a record of the sale, including the name and date of birth of the person making the purchase, the address of the purchaser, the date and time of the purchase, the type of identification displayed by the person and the identification number, and the item and number of grams purchased; and

(3) transmit the record of sale as required by Section 486.0141.

(b) Creates this subsection from existing text. Prohibits a business establishment from selling to a person who makes over-the-counter purchases of one or more products containing ephedrine, pseudoephedrine, or norpseudoephedrine:

(1) within any calendar day, more than:

(A) two packages of those products; or

(B) 3.6 grams, rather than six grams, or ephedrine, pseudoephedrine, or norpseudoephedrine, or a combination of those substances; and

(2) within any 30-day period, more than nine grams of ephedrine, pseudoephedrine, norpseudoephedrine, or a combination of those substances.

Deletes existing text requiring a business establishment that engages in those sales to take actions necessary to prevent a person who makes over-the-counter purchases of one or more products containing ephedrine, pseudoephedrine, or norpseudoephedrine from obtaining from the establishment in a single transaction more than certain amounts of those products.

SECTION 2. Amends Subchapter B, Chapter 486, Health and Safety Code, by adding Sections 486.0141-486.0144, as follows:

Sec. 486.0141. TRANSMISSION OF SALES INFORMATION TO A REAL-TIME ELECTRONIC LOGGING SYSTEM. (a) Requires a business establishment that engages in those sales, before completing an over-the-counter sale of a product containing ephedrine, pseudoephedrine, or norpseudoephedrine, to transmit the information in the record made under Section 486.014(a)(2) to a real-time electronic logging system used by pharmacies and law enforcement agencies and personnel, such as the National Precursor Log Exchange, that is administered by a nonprofit organization involved in the prevention and investigation of prescription drug diversion, such as the National Association of Drug Diversion Investigators, if such a system is available to the establishment at no cost.

(b) Prohibits a business establishment from completing an over-the-counter sale of a product containing ephedrine, pseudoephedrine, or norpseudoephedrine if a real-time electronic logging system described in Subsection (a) returns a report that the completion of the sale would result in the person obtaining an amount of ephedrine, pseudoephedrine, norpseudoephedrine, or a combination of those substances greater than the amount described by Section 486.014(b), regardless of whether all or some of the products previously obtained by the buyer were sold at the establishment or another business establishment.

(c) Requires the administrators of the real-time electronic logging system described in this section to forward to the Department of Public Safety of the State of Texas (DPS) a copy of each record of an over-the-counter sale of a product containing ephedrine, pseudoephedrine, or norpseudoephedrine that is submitted by a business establishment located in this state.

Sec. 486.0142. WRITTEN LOG. Requires the business, if a business establishment that engages in over-the-counter sales of a product containing ephedrine, pseudoephedrine, or norpseudoephedrine experiences a mechanical or electronic failure of the real-time electronic logging system, to maintain a written or electronic record that satisfies the requirements of Section 486.014(a)(2), and to enter the information in the electronic logging system as soon as practicable after the electronic logging system becomes operational.

Sec. 486.0143. ONLINE PORTAL. Requires the nonprofit organization involved in the prevention and investigation of prescription drug diversion described in Section 486.0141 that operates a real-time electronic logging system used by pharmacies and law enforcement agencies and personnel to provide real-time access to the information in the system to DPS if DPS executes a memorandum of understanding with the nonprofit organization that operates the system.

Sec. 486.0144. LIMITATION ON CIVIL LIABILITY. Provides that a person is not liable for an act or omission arising from the person's compliance with the requirements of Section 486.014 or 486.0141.

SECTION 3. Requires the Texas State Board of Pharmacy and the Department of State Health Services, not later than September 30, 2011, to provide to the nonprofit organization described in Section 486.0141, Health and Safety Code, as added by this Act, the names, addresses, and phone numbers of all pharmacy and retail establishments selling over-the-counter products containing ephedrine, pseudoephedrine, and norpseudoephedrine.

SECTION 4. Provides that the changes in law made by this Act apply only to an over-the-counter sale of a product containing ephedrine, pseudoephedrine, or norpseudoephedrine that is completed on or after the effective date of this Act. Provides that an over-the-counter sale of a product containing ephedrine, pseudoephedrine, or norpseudoephedrine that was completed before the effective date of this Act is covered by the law in effect when the sale was completed, and the former law is continued in effect for that purpose.

SECTION 5. (a) Effective date, except as provided by Subsection (b): January 1, 2012.

(b) Effective date, Section 3: September 1, 2011.