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**FISCAL IMPACT STATEMENT**

**LS 6473**

**BILL NUMBER: SB 394**

**NOTE PREPARED: Jan 4, 2011**

**BILL AMENDED:**

**SUBJECT:** Sale and Tracking of Ephedrine and Pseudoephedrine.

**FIRST AUTHOR:** Sen. Yoder

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:**  GENERAL  
 DEDICATED  
 FEDERAL

**IMPACT:** State

**Summary of Legislation:** This bill requires the Attorney General (AG) to enter into a memorandum of understanding with an entity to provide a pseudoephedrine (PSE) tracking system that meets certain standards. It requires a retailer to electronically transmit certain information concerning the sale of ephedrine and PSE to a statewide PSE tracking system. It also provides that a retailer must begin entering data into the PSE tracking system not later than 180 days after the AG enters into the memorandum of understanding. The bill provides that an exemption to the tracking requirement for persons who do not sell exclusively to walk in customers applies only to persons who do not sell to any walk in customers.

The bill requires the Board of Pharmacy to adopt certain rules concerning a pharmacy that does not comply with PSE tracking requirements.

The bill requires the Indiana State Police (ISP) to report to the Legislative Council concerning the effectiveness of PSE tracking in reducing the illicit production of methamphetamine.

**Effective Date:** January 1, 2012.

**Explanation of State Expenditures:** *Attorney General's Office:* The bill would require the AG's Office to select and contract with a provider of an electronic PSE tracking system that meets specified parameters. The AG's Office reported that since the bill requires only that the Office select and contract with a provider of an electronic PSE tracking system, the resources necessary to do so are available.

*Indiana Professional Licensing Agency (IPLA):* The bill also requires the Board of Pharmacy to adopt rules and procedures regarding a pharmacy or pharmacist that violates the entry requirements for the electronic

sales tracking system. While this requirement is considered to be within the Board of Pharmacy's routine administrative functions and should be able to be implemented with no additional appropriations, the IPLA reported that the Board of Pharmacy already has an administrative disciplinary process for licensees that do not comply with statutory requirements.

*Indiana State Police (ISP):* The bill requires the ISP to report to the Legislative Council before June 30, 2014, concerning the effectiveness of PSE tracking. The availability of the resources necessary to prepare the required report is not known at this time.

*Background Information:*

Current law requires retailers selling drugs with ephedrine or pseudoephedrine to complete a paper or electronic log. ISP is currently operating the Indiana Meth Information System (IMIS). ISP was given software developed under a federal grant by the State of Tennessee for the electronic log. No dedicated funds have been specifically allotted or expended on the electronic log to date. ISP has been operating the system within the level of resources currently available to the agency. IMIS does not include a “stop sale” function as required by the bill.

Currently, use of the IMIS is voluntary. The top five retailers are electronically submitting weekly data to the Indiana State Police, and other retailers are voluntarily entering sales logging data into the system. Both electronic and paper records are maintained by the ISP for two years, unless a suspicious pattern of consumption is detected in the electronic records, at which point a record may be maintained for five years.

Handgun license fees in excess of \$1.1 M are available to the ISP to operate and maintain the central repository for criminal history or to establish, operate, and maintain an electronic log of drug sales if the funds are allotted by the State Budget Agency. In FY 2010, the total handgun license fee revenues were \$5.3 M, and the portion available for the two allowed purposes was approximately \$4.2 M.

The bill specifies (1) that retailers and law enforcement agencies may not be charged a fee for access to the system; (2) the security requirements of the system and the frequency of data updates to the ISP; (3) the capacity of the system to stop sales; and (4) that the operating entity shall not modify sales transaction data that is provided to law enforcement. The IMIS system does not include the capacity to stop sales; it does include secure free access for retailers; and the ISP owns the data.

There is another electronic tracking system that was developed by the National Association of Drug Diversion Investigators (NADDI). The system is now being offered at no cost to states that have passed legislation to adopt real-time tracking of ephedrine and pseudoephedrine. The National Precursor Log Exchange (NPLEx). is a multi-state electronic tracking system that enforces purchase limitations on over-the-counter products containing pseudoephedrine in real time at the point of sale. Kentucky, Illinois, and Louisiana will be the first states to adopt NPLEx as their electronic tracking program.

**Explanation of State Revenues:**

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:**

**State Agencies Affected:** AG; Indiana Professional Licensing Agency, Board of Pharmacy; ISP.

**Local Agencies Affected:**

**Information Sources:** Indiana State Police, IPLA, NADDI at:  
[http://associationdatabase.com/aws/NADDI/asset\\_manager/get\\_file/12195/naddi\\_press\\_release\\_nov\\_2009.pdf](http://associationdatabase.com/aws/NADDI/asset_manager/get_file/12195/naddi_press_release_nov_2009.pdf)

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