



Oklahoma
State
Senate

Legislative Brief

June 2004

TROOPER NIK GREEN, ROCKY EALES AND MATTHEW EVANS ACT
HB 2176
PSEUDOEPHEDRINE AND METH LABS

Issue Background

The “meth lab” has become one of the most dangerous and difficult law enforcement challenges in Oklahoma. An overview of information and studies dealing with meth labs shows that methamphetamine is a potent form of the stimulant amphetamine and is a cheap and easily produced substance more addictive than crack cocaine. It is sometimes called “crank” or “crystal meth”. The recipe is easy to follow with ingredients such as drain cleaner, cold medicines, batteries and even coffee filters that can be easily purchased over the counter or stolen from the shelves of stores. The ingredients are easily hidden and can fit in a suitcase or in the trunk of a car. While prescription uses of amphetamines are typically 2.5 to 15 milligrams per day, abusers on a speed binge often consume up to 1,000 milligrams every three hours. An intense wave of physical and psychological exhilaration, or “rush”, takes place. In spite of the extreme damage of long-term use, the rush keeps the users doing anything and everything they can to get the drug. It is highly addictive, and users lose interest in any other aspect of their lives except getting their next hit. Withdrawal is extremely severe and may last months.

There are other public safety problems related to the illegal manufacturing of methamphetamines. Meth labs are dangerous to children and other people in the immediate vicinity of the lab. The ingredients for meth are toxic and extremely flammable when mixed, and the slightest spark can cause the lab to explode. The toxic byproducts of a meth lab pose another danger to the environment, and the cleanup is an expensive undertaking. In addition, the number of inmates incarcerated for drug-related offenses in Oklahoma has skyrocketed, adding another huge cost to the meth lab scene.

Meth lab raids and news reports concerning drug use are now a part of everyday life in Oklahoma. In the late 1980's, Oklahoma ranked 4th nationally for the number of labs seized each year. The number fell drastically due to state and federal laws regulating the chemicals needed for the recipe. But, in the 90s, a new recipe using the drug ephedrine began a new era for meth labs. In the ensuing years, Oklahoma once again found itself at the top of national statistics relating to methamphetamine manufacturing. At the heart of the nearly 1200% increase in meth lab seizures in Oklahoma in the past 10 years has been the ingredient, pseudoephedrine, a common ingredient in such medicines as Claritin-D and Sudafed. It is now the ingredient of choice for methamphetamine production. Although Oklahoma enacted precursor laws to control many of the chemicals used for manufacturing meth, over-the-counter products were still driving the meth lab scene in Oklahoma.

Troopers Nik Green, Rocky Eales and Matthew Evans have made the methamphetamine epidemic in Oklahoma all the more personal. All three were violently killed in drug-related law enforcement actions recently, and their deaths became the catalyst for more determined efforts to get control of the illegal manufacturing of methamphetamine. Law enforcement agencies at all levels brought the need to control access to pseudoephedrine to the legislative level. The result of their efforts is HB 2176 which creates the Trooper Nik Green, Rocky Eales and Matthew Evans Act.

Legislative Measures

The provisions of HB 2176 are designed to have a major impact on the ability to obtain pseudoephedrine in quantities for manufacturing methamphetamine or to possess substances in such quantities that are used in the manufacture of controlled dangerous substances. The bill also addresses the bonding and release of defendants arrested for meth-related crimes. The provisions:

1. Create a presumption that bond should be denied to any person arrested for a violation of certain laws relating to manufacturing or attempting to manufacture a controlled dangerous substance or possessing any of the substances listed in law with the intent to manufacture a controlled dangerous substance. Bond can also be denied if a person is dependent upon a controlled dangerous substance or has a pattern of regular illegal use of a controlled dangerous substance and the violation the person was arrested for was committed or attempted in order to maintain or facilitate the dependence or pattern of illegal use.

2. Make pseudoephedrine a Schedule V substance and provide that pseudoephedrine tablets shall be available only at a licensed pharmacy.

3. Require a person acquiring pseudoephedrine to show a photo ID and sign a written log or receipt relating to the sale.

4. Restrict the amount of pseudoephedrine a person can acquire to 9 grams within a 30-day period, except upon a valid prescription.

5. Exempt liquid and gel products containing pseudoephedrine from the Schedule since they are not used in the manufacture of methamphetamine.

6. Allow for exemptions of certain products that are not used or cannot be used to produce methamphetamine.

7. Reduce the amount of certain substances from 24 grams to 9 grams that will constitute a presumption of intent to use the product as a precursor to methamphetamine or another controlled dangerous substance.

8. Add phosphorus to the list of substances that are unlawful to possess with the intent to manufacture a controlled dangerous substance.

Summary of Actions

As a result of HB 2176, businesses other than pharmacies were required to stop selling pseudoephedrine tablets on April 6, 2004. They were given a grace period of 30 days to arrange a buy-back with their distributors or to contact law enforcement to take possession of their inventories. That grace period ended May 6, 2004. Pharmacies had until June 6, 2004, to place pseudoephedrine tablets behind the counter or in a secured case and to implement an in-store logging system for pseudoephedrine tablet transactions. This grace period has also expired, and all provisions of the bill are now enforceable.

The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control has efforts underway to put in place a centralized computer database that will ultimately track tablet pseudoephedrine sales in order to control the limit of 9 grams in a 30-day period for an individual without a prescription.

With the enactment of HB 2176, law enforcement in Oklahoma hopes to see major reductions in meth labs and the production of methamphetamine. Surrounding states do not have stringent laws relating to the sale of pseudoephedrine, however, and drug users may be able to obtain the tablets with ease outside state lines. Law enforcement in Oklahoma hopes that other states will enact similar provisions. One of Oklahoma's U.S. Representatives has proposed a federal law similar to HB 2176 in order to control the sale of pseudoephedrine and ephedrine nationally.

A timely note: The *Tulsa World* on June 8, 2004, quoting law enforcement officials, cited some evidence of a slowdown in the production of methamphetamine in the state, even given the short period of time since the law went into effect. If successful, Oklahoma's law could become a model for others to follow.

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