

Calendar No. 962

110TH CONGRESS
2D SESSION

S. 1276

To establish a grant program to facilitate the creation of methamphetamine precursor electronic logbook systems, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 3, 2007

Mr. DURBIN (for himself, Mr. GRASSLEY, Ms. CANTWELL, Mrs. CLINTON, Mr. HARKIN, Mr. OBAMA, Mrs. FEINSTEIN, Mrs. MCCASKILL, Mr. BAYH, Mr. JOHNSON, Mrs. LINCOLN, Mr. BIDEN, Mr. CONRAD, Ms. MURKOWSKI, and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

SEPTEMBER 15, 2008

Reported by Mr. LEAHY, with an amendment and an amendment to the title
[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To establish a grant program to facilitate the creation of methamphetamine precursor electronic logbook systems, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 ~~This Act may be cited as the “Methamphetamine~~
5 ~~Production Prevention Act of 2007”.~~

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) the manufacture, distribution and use of
4 methamphetamine have inflicted damages on individ-
5 uals, families, communities, businesses, the economy,
6 and the environment throughout the United States;

7 (2) methamphetamine is unique among illicit
8 drugs in that the harms relating to methamphet-
9 amine stem not only from its distribution and use,
10 but also from the manufacture of the drug by
11 “cooks” in clandestine labs throughout the United
12 States;

13 (3) Federal and State restrictions limiting the
14 sale of legal drug products that contain meth-
15 amphetamine precursors have reduced the number
16 and size of domestic methamphetamine labs;

17 (4) domestic methamphetamine cooks have
18 managed to circumvent restrictions on the sale of
19 methamphetamine precursors by “smurfing”, or pur-
20 chasing impermissibly large cumulative amounts of
21 precursor products by traveling from retailer to re-
22 tailer and buying permissible quantities at each re-
23 tailer;

24 (5) although Federal and State laws require re-
25 tailers of methamphetamine precursor products to
26 keep written or electronic logbooks recording sales of

1 precursor products, retailers are not always required
2 to transmit this logbook information to appropriate
3 law enforcement and regulatory agencies, except
4 upon request;

5 (6) when retailers' logbook information regard-
6 ing sales of methamphetamine precursor products is
7 kept in a database in an electronic format and
8 transmitted between retailers and appropriate law
9 enforcement and regulatory agencies, such informa-
10 tion can be used to further reduce the number of do-
11 mestic methamphetamine labs by preventing the sale
12 of methamphetamine precursors in excess of legal
13 limits, and by identifying and prosecuting "smurfs"
14 and others involved in methamphetamine manufac-
15 turing;

16 (7) States and local governments are already
17 beginning to develop such electronic logbook data-
18 base systems, but they are hindered by a lack of re-
19 sources;

20 (8) efforts by States and local governments to
21 develop such electronic logbook database systems
22 may also be hindered by logbook recordkeeping re-
23 quirements contained in section 310(e) of the Con-
24 trolled Substances Act (21 U.S.C. 830(e)) that are

1 tailored to written logbooks and not to electronic
2 logbooks; and

3 ~~(9) providing resources to States and localities~~
4 ~~and making technical corrections to the Combat~~
5 ~~Methamphetamine Epidemic Act of 2005 will allow~~
6 ~~more rapid and widespread development of such~~
7 ~~electronic logbook systems; thereby reducing the do-~~
8 ~~mestic manufacture of methamphetamine and its as-~~
9 ~~sociated harms.~~

10 **SEC. 3. DEFINITIONS.**

11 In this Act—

12 ~~(1) the term “local” means a county, city, town,~~
13 ~~township, parish, village, or other general purpose~~
14 ~~political subdivision of a State;~~

15 ~~(2) the term “methamphetamine precursor elec-~~
16 ~~tronic logbook system” means a system by which a~~
17 ~~regulated seller electronically records and transmits~~
18 ~~to an electronic database accessible to appropriate~~
19 ~~law enforcement and regulatory agencies information~~
20 ~~regarding the sale of a scheduled listed chemical~~
21 ~~product that is required to be maintained under sec-~~
22 ~~tion 310(e) of the Controlled Substances Act (21~~
23 ~~U.S.C. 830(e)) (as amended by this Act), State law~~
24 ~~governing the distribution of a scheduled listed~~

1 chemical product, or any other Federal, State, or
2 local law;

3 ~~(3)~~ the terms “regulated seller” and “scheduled
4 listed chemical product” have the meanings given
5 such terms in section 102 of the Controlled Sub-
6 stances Act ~~(21 U.S.C. 802)~~; and

7 ~~(4)~~ the term “State”—

8 (A) means a State of the United States,
9 the District of Columbia, and any common-
10 wealth, territory, or possession of the United
11 States; and

12 ~~(B)~~ includes an “Indian tribe”, as that
13 term is defined in section 102 of the Federally
14 Recognized Indian Tribe List Act of 1994 ~~(25~~
15 ~~U.S.C. 479a)~~.

16 **SEC. 4. AUTHORIZATION FOR EFFECTIVE METHAMPHET-**
17 **AMINE PRECURSOR ELECTRONIC LOGBOOK**
18 **SYSTEMS.**

19 Section 310(e)(1) of the Controlled Substances Act
20 ~~(21 U.S.C. 830(e)(1))~~ is amended—

21 ~~(1)~~ in subparagraph (A)(iii), by striking “a
22 written or electronic list” and inserting “a written
23 list or an electronic list that complies with subpara-
24 graph (H)”; and

25 ~~(2)~~ adding at the end the following:

“(H) ELECTRONIC LOGBOOKS.—

“(i) IN GENERAL.—A logbook maintained in electronic form shall include, for each sale to which the requirement of subparagraph (A)(iii) applies, the name of any product sold, the quantity of that product sold, the name and address of each purchaser, the date and time of the sale, and any other information required by State or local law.

“(ii) SELLERS.—In complying with the requirements of clause (i), a regulated seller may—

“(I) ask a prospective purchaser for the name and address, and enter such information into the electronic logbook, and if the seller enters the name and address of the prospective purchaser into the electronic logbook, the seller shall determine that the name entered into the electronic logbook corresponds to the name provided on the identification presented by the purchaser under subparagraph (A)(iv)(I)(aa); and

1 “(H) use a software program
2 that automatically and accurately
3 records the date and time of each
4 sale.

5 “(iii) PURCHASERS.—A prospective
6 purchaser in a sale to which the require-
7 ment of subparagraph (A)(iii) applies that
8 is being documented in an electronic log-
9 book shall provide a signature in at least
10 one of the following ways:

11 “(I) Signing a device presented
12 by the seller that captures signatures
13 in an electronic format.

14 “(II) Signing a bound paper
15 book.

16 “(III) Signing a printed docu-
17 ment that corresponds to the elec-
18 tronically-captured logbook informa-
19 tion for such purchaser.

20 “(iv) ELECTRONIC SIGNATURES.—

21 “(I) DEVICE.—Any device used
22 under clause (iii)(I) shall—

23 “(aa) preserve each signa-
24 ture in a manner that clearly
25 links that signature to the other

electronically-captured logbook
information relating to the pro-
spective purchaser providing that
signature; and

“(bb) display information
that complies with subparagraph
(A)(v).

“(II) DOCUMENT RETENTION.—

A regulated seller that uses a device
under clause (iii)(I) to capture signa-
tures shall maintain each such signa-
ture for not less than 2 years after
the date on which that signature is
captured.

“(v) PAPER BOOKS.—

“(I) IN GENERAL.—Any bound
paper book used under clause (iii)(II)
shall—

“(aa) ensure that the signa-
ture of the prospective purchaser
is adjacent to a unique identifier
number or a printed sticker that
clearly links that signature to the
electronically-captured logbook

1 information relating to that pro-
 2 spective purchaser; and

3 “(bb) display information
 4 that complies with subparagraph
 5 (A)(v);

6 “(H) DOCUMENT RETENTION.—

7 A regulated seller that uses bound
 8 paper books under clause (iii)(H) shall
 9 maintain any entry in such books for
 10 not less than 2 years after the date on
 11 which that entry is made.

12 “(vi) PRINTED DOCUMENTS.—

13 “(I) IN GENERAL.—Any printed
 14 document used under clause (iii)(H)
 15 shall—

16 “(aa) be printed by the sell-
 17 er at the time of the sale that
 18 document relates to;

19 “(bb) display information
 20 that complies with subparagraph
 21 (A)(v);

22 “(cc) for the relevant sale,
 23 list the name of each product
 24 sold, the quantity sold, the name
 25 and address of the purchaser;

1 and the date and time of the
2 sale;

3 “(dd) contain a clearly iden-
4 tified signature line for a pur-
5 chaser to sign; and

6 “(ee) include a notice that
7 the signer has read the printed
8 information and agrees that it is
9 accurate.

10 “(H) DOCUMENT RETENTION.—

11 “(aa) IN GENERAL.—A reg-
12 ulated seller that uses printed
13 documents under clause (iii)(H)
14 shall maintain each such docu-
15 ment for not less than 2 years
16 after the date on which that doc-
17 ument is signed.

18 “(bb) SECURE STORAGE.—

19 Each signed document shall be
20 inserted into a binder or other
21 secure means of document stor-
22 age immediately after the pur-
23 chaser signs the document.”.

1 **SEC. 5. GRANTS FOR METHAMPHETAMINE PRECURSOR**
2 **ELECTRONIC LOGBOOK SYSTEMS.**

3 (a) **ESTABLISHMENT.**—The Attorney General of the
4 United States, through the Office of Justice Programs of
5 the Department of Justice, may make grants, in accord-
6 ance with such regulations as the Attorney General may
7 prescribe, to State and local governments to plan, develop,
8 implement, or enhance methamphetamine precursor elec-
9 tronic logbook systems.

10 (b) **USE OF FUNDS.**—

11 (1) **IN GENERAL.**—A grant under this section
12 may be used to enable a methamphetamine pre-
13 cursor electronic logbook system to—

14 (A) indicate to a regulated seller, upon the
15 entry of information regarding a prospective
16 purchaser into the methamphetamine precursor
17 electronic logbook system, whether that pro-
18 spective purchaser has been determined by ap-
19 propriate law enforcement or regulatory agen-
20 cies to be eligible, ineligible, or potentially ineli-
21 gible to purchase a scheduled listed chemical
22 product under Federal, State, or local law; and

23 (B) provide contact information for a pro-
24 spective purchaser to use if the prospective pur-
25 chaser wishes to question a determination by
26 appropriate law enforcement or regulatory

1 agencies that the prospective purchaser is ineli-
 2 gible or potentially ineligible to purchase a
 3 scheduled listed chemical product.

4 ~~(2) ACCESS TO INFORMATION.—Any meth-~~
 5 ~~amphetamine precursor electronic logbook system~~
 6 ~~planned, developed, implemented, or enhanced with a~~
 7 ~~grant under this section shall prohibit accessing,~~
 8 ~~using, or sharing information entered into that sys-~~
 9 ~~tem for any purpose other than to—~~

10 ~~(A) ensure compliance with this Act, sec-~~
 11 ~~tion 310(e) of the Controlled Substances Act~~
 12 ~~(21 U.S.C. 830(e)) (as amended by this Act),~~
 13 ~~State law governing the distribution of any~~
 14 ~~scheduled listed chemical product, or other ap-~~
 15 ~~plicable Federal, State, or local law; or~~

16 ~~(B) facilitate a product recall to protect~~
 17 ~~public safety.~~

18 ~~(c) GRANT REQUIREMENTS.—~~

19 ~~(1) MAXIMUM AMOUNT.—The Attorney General~~
 20 ~~shall not award a grant under this section in an~~
 21 ~~amount that exceeds \$300,000.~~

22 ~~(2) DURATION.—The period of a grant made~~
 23 ~~under this section shall not exceed 3 years.~~

24 ~~(3) MATCHING REQUIREMENT.—Not less than~~
 25 ~~25 percent of the cost of a project for which a grant~~

1 is made under this section shall be provided by non-
2 Federal sources:

3 (4) PREFERENCE FOR GRANTS.—In awarding
4 grants under this section, the Attorney General shall
5 give priority to any grant application involving a
6 proposed or ongoing methamphetamine precursor
7 electronic logbook system that is—

8 (A) statewide in scope;

9 (B) capable of real-time capture and trans-
10 mission of logbook information to appropriate
11 law enforcement and regulatory agencies;

12 (C) designed in a manner that will facili-
13 tate the exchange of logbook information be-
14 tween appropriate law enforcement and regu-
15 latory agencies across jurisdictional boundaries,
16 including State boundaries; and

17 (D) developed and operated, to the extent
18 feasible, in consultation and ongoing coordina-
19 tion with the Drug Enforcement Administra-
20 tion, the Office of Justice Programs, the Office
21 of National Drug Control Policy, the non-profit
22 corporation described in section 1105 of the Of-
23 fice of National Drug Control Policy Reauthor-
24 ization Act of 2006 (21 U.S.C. 1701 note),
25 other Federal, State, and local law enforcement

1 and regulatory agencies, as appropriate, and
2 regulated sellers.

3 ~~(5) ANNUAL REPORT.—~~

4 ~~(A) IN GENERAL.—~~Not later than Decem-
5 ber 31 of each calendar year in which funds
6 from a grant received under this section are ex-
7 pended, the Attorney General shall submit a re-
8 port to Congress containing—

9 (i) a summary of the activities carried
10 out with grant funds during that year;

11 (ii) an assessment of the effectiveness
12 of the activities described in clause (i) on
13 the planning, development, implementation
14 or enhancement of methamphetamine pre-
15 cursor electronic logbook systems;

16 (iii) an assessment of the effect of the
17 activities described in clause (i) on cur-
18 tailing the manufacturing of methamphet-
19 amine in the United States and the harms
20 associated with such manufacturing; and

21 (iv) a strategic plan for the year fol-
22 lowing the year of that report.

23 ~~(B) ADDITIONAL INFORMATION.—~~The At-
24 torney General may require the recipient of a
25 grant under this section to provide information

relevant to preparing any report under subparagraph (A) in a report that grant recipient is required to submit to the Office of Justice Programs of the Department of Justice.

SEC. 6. STUDY.

(a) ~~IN GENERAL.~~—Not later than 1 year after the date on which grant funds under section 5 are first distributed, the Comptroller General of the United States shall conduct a study and submit to Congress a report regarding the effectiveness of methamphetamine precursor electronic logbook systems that receive funding under that section.

(b) ~~CONTENTS.~~—The report submitted under subsection (a) shall include—

(1) a summary of the activities carried out with grant funds during the previous year;

(2) an assessment of the effectiveness of the activities described in paragraph (1) on the planning, development, implementation or enhancement of methamphetamine precursor electronic logbook systems in the United States;

(3) an assessment of the extent to which proposed or operational methamphetamine precursor electronic logbook systems in the United States, in-

cluding those that receive funding under section 5;
are—

(A) statewide in scope;

(B) capable of real-time capture and transmission of logbook information to appropriate law enforcement and regulatory agencies;

(C) designed in a manner that will facilitate the exchange of logbook information between appropriate law enforcement and regulatory agencies across jurisdictional boundaries, including State boundaries; and

(D) developed and operated, to the extent feasible, upon consultation with and in ongoing coordination with the Drug Enforcement Administration, the Office of Justice Programs, the Office of National Drug Control Policy, the non-profit corporation described in section 1105 of the Office of National Drug Control Policy Reauthorization Act of 2006 (21 U.S.C. 1701 note), other Federal, State, and local law enforcement and regulatory agencies, as appropriate, and regulated sellers;

(4) an assessment of the effect of methamphetamine precursor electronic logbook systems, including those that receive funding under this Act, on

1 curtailing the manufacturing of methamphetamine
 2 in the United States and reducing its associated
 3 harms;

4 (5) recommendations for further curtailing the
 5 domestic manufacturing of methamphetamine and
 6 reducing its associated harms; and

7 (6) such other information as the Comptroller
 8 General determines appropriate.

9 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

10 There are authorized to be appropriated to carry out
 11 this Act—

12 (1) \$3,000,000 for fiscal year 2008; and

13 (2) such sums as may be necessary for each fis-
 14 cal year thereafter.

15 **SECTION 1. SHORT TITLE.**

16 *This Act may be cited as the “Methamphetamine Pro-*
 17 *duction Prevention Act of 2008”.*

18 **SEC. 2. CLARIFICATIONS REGARDING SIGNATURE CAPTURE**
 19 **AND RETENTION FOR ELECTRONIC METH-**
 20 **AMPHETAMINE PRECURSOR LOGBOOK SYS-**
 21 **TEMS.**

22 *Section 310(e)(1)(A) of the Controlled Substances Act*
 23 *(21 U.S.C. 830(e)(1)(A)) is amended by striking clauses (iv)*
 24 *through (vi) and inserting the following:*

1 “(iv) *In the case of a sale to which the*
2 *requirement of clause (iii) applies, the seller*
3 *does not sell such a product unless the sale*
4 *is made in accordance with the following:*

5 “(I) *The prospective purchaser—*

6 “(aa) *presents an identifica-*
7 *tion card that provides a photo-*
8 *graph and is issued by a State or*
9 *the Federal Government, or a doc-*
10 *ument that, with respect to identi-*
11 *fication, is considered acceptable*
12 *for purposes of sections*
13 *274a.2(b)(1)(v)(A) and*
14 *274a.2(b)(1)(v)(B) of title 8, Code*
15 *of Federal Regulations (as in ef-*
16 *fect on or after March 9, 2006);*
17 *and*

18 “(bb) *signs the written log-*
19 *book and enters in the logbook his*
20 *or her name, address, and the*
21 *date and time of the sale, or for*
22 *transactions involving an elec-*
23 *tronic logbook, the purchaser pro-*
24 *vides a signature using one of the*
25 *following means:*

1 “(AA) *Signing a device*
2 *presented by the seller that*
3 *captures signatures in an*
4 *electronic format. Such de-*
5 *vice shall display the notice*
6 *described in clause (v). Any*
7 *device used shall preserve*
8 *each signature in a manner*
9 *that clearly links that signa-*
10 *ture to the other electroni-*
11 *cally-captured logbook infor-*
12 *mation relating to the pro-*
13 *spective purchaser providing*
14 *that signature.*

15 “(BB) *Signing a bound*
16 *paper book. Such bound*
17 *paper book shall include, for*
18 *such purchaser, either (aaa)*
19 *a printed sticker affixed to*
20 *the bound paper book at the*
21 *time of sale which either dis-*
22 *plays the name of each prod-*
23 *uct sold, the quantity sold,*
24 *the name and address of the*
25 *purchaser, and the date and*

1 *time of the sale, or a unique*
2 *identifier which can be*
3 *linked to that electronic in-*
4 *formation, or (bbb) a unique*
5 *identifier which can be*
6 *linked to that information*
7 *and which is written into the*
8 *book by the seller at the time*
9 *of sale. The purchaser shall*
10 *sign adjacent to the printed*
11 *sticker or written unique*
12 *identifier related to that sale.*
13 *Such bound paper book shall*
14 *display the notice described*
15 *in clause (v).*

16 “(CC) *Signing a print-*
17 *ed document that includes,*
18 *for such purchaser, the name*
19 *of each product sold, the*
20 *quantity sold, the name and*
21 *address of the purchaser, and*
22 *the date and time of the sale.*
23 *Such document shall be*
24 *printed by the seller at the*
25 *time of the sale. Such docu-*

1 *ment shall contain a clearly*
2 *identified signature line for a*
3 *purchaser to sign. Such*
4 *printed document shall dis-*
5 *play the notice described in*
6 *clause (v). Each signed docu-*
7 *ment shall be inserted into a*
8 *binder or other secure means*
9 *of document storage imme-*
10 *diately after the purchaser*
11 *signs the document.*

12 *“(II) The seller enters in the log-*
13 *book the name of the product and the*
14 *quantity sold. Such information may*
15 *be captured through electronic means,*
16 *including through electronic data cap-*
17 *ture through bar code reader or similar*
18 *technology.*

19 *“(III) The logbook maintained by*
20 *the seller includes the prospective pur-*
21 *chaser’s name, address, and the date*
22 *and time of the sale, as follows:*

23 *“(aa) If the purchaser enters*
24 *the information, the seller must*
25 *determine that the name entered*

1 *in the logbook corresponds to the*
2 *name provided on such identifica-*
3 *tion and that the date and time*
4 *entered are correct.*

5 “(bb) *If the seller enters the*
6 *information, the prospective pur-*
7 *chaser must verify that the infor-*
8 *mation is correct.*

9 “(cc) *Such information may*
10 *be captured through electronic*
11 *means, including through elec-*
12 *tronic data capture through bar*
13 *code reader or similar technology.*

14 “(v) *The written or electronic logbook*
15 *includes, in accordance with criteria of the*
16 *Attorney General, a notice to purchasers*
17 *that entering false statements or misrepre-*
18 *sentations in the logbook, or supplying false*
19 *information or identification that results in*
20 *the entry of false statements or misrepresen-*
21 *tations, may subject the purchasers to*
22 *criminal penalties under section 1001 of*
23 *title 18, United States Code, which notice*
24 *specifies the maximum fine and term of im-*
25 *prisonment under such section.*

1 “(vi) *Regardless of whether the logbook*
2 *entry is written or electronic, the seller*
3 *maintains each entry in the logbook for not*
4 *fewer than 2 years after the date on which*
5 *the entry is made.*”.

Amend the title so as to read: “A bill to facilitate
the creation of methamphetamine precursor electronic
logbook systems, and for other purposes.”.

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110TH CONGRESS
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Reported with an amendment and an amendment to the title