



# HOUSE BILL No. 4996

October 14, 1999, Introduced by Reps. Allen, Spade, Richner, Shulman, Rick Johnson, Howell, Pappageorge, Rocca, Ruth Johnson, Woronchak, Green, Jelinek, Law, DeVuyst, Geiger, Cassis, Jansen, Stamas, Jellema, Kuipers, Godchaux, Kukuk, Mortimer and Caul and referred to the Committee on Criminal Law and Corrections.

A bill to amend 1967 PA 119, entitled

"An act regulating the use of chemical agents containing toxic chemicals or organic solvents or both, having the property of releasing toxic vapors; and providing for penalties,"

by amending the title and section 3 (MCL 752.273) and by adding section 2a; and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

TITLE

AN ACT ~~regulating~~ TO REGULATE the SALE, DISTRIBUTION, AND use of CERTAIN chemical agents ~~containing toxic chemicals or organic solvents or both, having the property of releasing toxic vapors~~ AND DEVICES CONTAINING CERTAIN CHEMICAL AGENTS; and ~~providing for~~ TO PROVIDE penalties.

SEC. 2A. (1) A PERSON SHALL NOT SELL OR OTHERWISE DISTRIBUTE TO ANOTHER PERSON ANY DEVICE THAT HAS A GROSS WEIGHT

1 OF LESS THAN 8 OUNCES AND THAT CONTAINS ANY QUANTITY OF NITROUS  
2 OXIDE. THIS SUBSECTION DOES NOT APPLY TO ANY OF THE FOLLOWING:

3 (A) A PERSON LICENSED UNDER THE FOOD PROCESSING ACT OF 1977,  
4 1978 PA 328, MCL 289.801 TO 289.810, WHO SELLS OR OTHERWISE DIS-  
5 TRIBUTES THE DEVICE AS A GROCERY PRODUCT.

6 (B) A PERSON ENGAGED IN THE BUSINESS OF SELLING OR DISTRIB-  
7 UTING COMPRESSED GASES FOR INDUSTRIAL OR MEDICAL USE WHO SELLS OR  
8 OTHERWISE DISTRIBUTES THE DEVICE IN THE COURSE OF THAT BUSINESS.

9 (C) A PHARMACIST, PHARMACIST INTERN, OR PHARMACY AS DEFINED  
10 IN SECTION 17707 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL  
11 333.17707, WHO DISPENSES THE DEVICE IN THE COURSE OF HIS OR HER  
12 DUTIES AS A PHARMACIST OR PHARMACIST INTERN OR AS A PHARMACY.

13 (2) A PERSON WHO VIOLATES SUBSECTION (1) IS GUILTY OF A  
14 CRIME AS FOLLOWS:

15 (A) EXCEPT AS PROVIDED IN SUBDIVISIONS (B) AND (C), THE  
16 PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR  
17 NOT MORE THAN 93 DAYS OR A FINE OF NOT MORE THAN \$100.00, OR  
18 BOTH.

19 (B) IF THE PERSON HAS 1 PRIOR CONVICTION, THE PERSON IS  
20 GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE  
21 THAN 1 YEAR OR A FINE OF NOT MORE THAN \$500.00, OR BOTH.

22 (C) IF THE PERSON HAS 2 OR MORE PRIOR CONVICTIONS, THE  
23 PERSON IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT  
24 MORE THAN 4 YEARS OR A FINE OF NOT MORE THAN \$2,000.00, OR BOTH.

25 (3) AS USED IN THIS SECTION, "PRIOR CONVICTION" MEANS A PRE-  
26 VIOUS VIOLATION OF THIS SECTION OR A LAW OF ANOTHER STATE, A LAW  
27 OF A LOCAL UNIT OF GOVERNMENT OF THIS STATE OR ANOTHER STATE, OR

1 A LAW OF THE UNITED STATES SUBSTANTIALLY CORRESPONDING TO THIS  
2 SECTION.

3       Sec. 3. ~~Any~~ EXCEPT AS PROVIDED IN SECTION 2A, A person  
4 ~~violating the provisions of~~ WHO VIOLATES this act ~~shall be~~ IS  
5 guilty of a misdemeanor PUNISHABLE BY IMPRISONMENT FOR NOT MORE  
6 THAN 93 DAYS OR A FINE OF NOT MORE THAN \$100.00, OR BOTH.

7       Enacting section 1. Section 4 of 1967 PA 119, MCL 752.274,  
8 is repealed.