

HOUSE BILL No. 4772

May 15, 2001, Introduced by Reps. Anderson, Basham, Phillips, Daniels, Schauer, Bovin, Rich Brown, Jacobs, Neumann, Hale, Switalski, Ruth Johnson, Rivet, Zelenko, Plakas and O'Neil and referred to the Committee on Criminal Justice.

A bill to amend 1967 PA 119, entitled

"An act to regulate the sale, distribution, and use of certain chemical agents and devices containing certain chemical agents; and to provide penalties,"

by amending section 2a (MCL 752.272a), as added by 2000 PA 299.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2a. (1) ~~—A~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SEC-
2 TION, A person shall not ~~—sell—~~ DO ANY OF THE FOLLOWING:

3 (A) SELL OR OTHERWISE DISTRIBUTE NITROUS OXIDE TO A MINOR.

4 (B) SELL or otherwise distribute to another person any
5 device that contains any quantity of nitrous oxide ~~—or sell—~~ FOR
6 THE PURPOSE OF CAUSING A CONDITION OF INTOXICATION, EUPHORIA,
7 EXCITEMENT, EXHILARATION, STUPEFACTION, OR DULLING OF THE SENSES
8 OR NERVOUS SYSTEM.

9 (C) SELL or otherwise distribute a device to dispense
10 nitrous oxide for the purpose of causing a condition of

1 intoxication, euphoria, excitement, exhilaration, stupefaction,
2 or dulling of the senses or nervous system. ~~This subsection~~

3 (D) SELL OR OTHERWISE DISTRIBUTE NITROUS OXIDE OR ANY DEVICE
4 CONTAINING NITROUS OXIDE WITHOUT COMPLYING WITH THE
5 RECORD-KEEPING REQUIREMENT OF SUBSECTION (3).

6 (2) SUBSECTION (1) does not apply to nitrous oxide that has
7 been denatured or otherwise rendered unfit for human consumption
8 or to any of the following:

9 (a) A person licensed under the food processing act of 1977,
10 1978 PA 328, MCL 289.801 to 289.810, or chapter VII of the food
11 law of 2000, 2000 PA 92, MCL 289.7101 to 289.7137, who sells or
12 otherwise distributes the device as a grocery product.

13 (b) A person engaged in the business of selling or distrib-
14 uting catering supplies only or food processing equipment only,
15 or selling or distributing compressed gases for industrial or
16 medical use who sells or otherwise distributes the device in the
17 course of that business.

18 (c) A pharmacist, pharmacist intern, or pharmacy as defined
19 in section 17707 of the public health code, 1978 PA 368, MCL
20 333.17707, who dispenses the device in the course of his or her
21 duties as a pharmacist or pharmacist intern or as a pharmacy.

22 (d) A health care professional.

23 (3) A PERSON WHO SELLS OR OTHERWISE DISTRIBUTES NITROUS
24 OXIDE IN THIS STATE SHALL RECORD EACH TRANSACTION INVOLVING THE
25 SALE OR DISTRIBUTION ON A SEPARATE CARD. THE PERSON SHALL
26 REQUIRE THE PURCHASER TO SIGN THE CARD AND PROVIDE A COMPLETE
27 RESIDENCE ADDRESS. THE PERSON SELLING OR DISTRIBUTING THE

1 NITROUS OXIDE SHALL SIGN AND DATE THE CARD. THE PERSON SHALL
2 RETAIN THE CARD RECORDING A TRANSACTION FOR 1 YEAR FROM THE DATE
3 OF THE TRANSACTION. THE PERSON SHALL MAINTAIN THE CARDS AT THE
4 PERSON'S BUSINESS ADDRESS AND MAKE THEM AVAILABLE DURING NORMAL
5 BUSINESS HOURS FOR INSPECTION AND COPYING BY OFFICERS OR EMPLOY-
6 EES OF THE STATE BOARD OF PHARMACY OR OF OTHER LAW ENFORCEMENT
7 AGENCIES OF THIS STATE OR THE UNITED STATES THAT ARE AUTHORIZED
8 TO INVESTIGATE DRUG OFFENSES. THE CARDS USED TO RECORD EACH
9 TRANSACTION SHALL INFORM THE PURCHASER OF THE FOLLOWING:

10 (A) THAT NITROUS OXIDE CARTRIDGES ARE TO BE USED ONLY FOR
11 PURPOSES OF PREPARING FOOD.

12 (B) THAT INHALATION OF NITROUS OXIDE CAN HAVE DANGEROUS
13 HEALTH EFFECTS.

14 (C) THAT IT IS A VIOLATION OF STATE LAW TO SELL OR OTHERWISE
15 DISTRIBUTE NITROUS OXIDE TO ANY PERSON WHO IS A MINOR.

16 (4) EACH CARTRIDGE OF NITROUS OXIDE SOLD OR OTHERWISE DIS-
17 TRIBUTED IN THIS STATE SHALL BEAR THE FOLLOWING PRINTED WARNING:

18 "NITROUS OXIDE CARTRIDGES ARE TO BE USED ONLY FOR PURPOSES
19 OF PREPARING FOOD. NITROUS OXIDE CARTRIDGES MAY NOT BE SOLD OR
20 DISTRIBUTED TO MINORS. DO NOT INHALE CONTENTS. MISUSE CAN BE
21 DANGEROUS TO YOUR HEALTH."

22 (5) EACH TIME A PERSON SELLS OR OTHERWISE DISTRIBUTES 1 OR
23 MORE CARTRIDGES OF NITROUS OXIDE, THE PERSON SHALL MARK THE PACK-
24 AGING CONTAINING THE CARTRIDGES WITH A LABEL OR OTHER DEVICE THAT
25 IDENTIFIES THE PERSON WHO SOLD OR OTHERWISE DISTRIBUTED THE
26 NITROUS OXIDE AND THE PERSON'S BUSINESS ADDRESS.

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

3 (A) EXCEPT AS PROVIDED IN SUBDIVISION (B), THE PERSON IS
4 GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN
5 1 YEAR OR A FINE OF NOT MORE THAN \$1,000.00, OR BOTH.

6 (B) FOR A SECOND OR SUBSEQUENT VIOLATION, THE PERSON IS
7 GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 4
8 YEARS OR A FINE OF NOT MORE THAN \$2,000.00, OR BOTH.

9 (7) ~~-(2)-~~ A person who violates subsection ~~-(1)-~~ (1)(B),
10 (C), OR (D) is guilty of a crime as follows:

11 (a) Except as provided in subdivisions (b) and (c), the
12 person is guilty of a misdemeanor punishable by imprisonment for
13 not more than 93 days or a fine of not more than \$100.00, or
14 both.

15 (b) If the person has 1 prior conviction, the person is
16 guilty of a misdemeanor punishable by imprisonment for not more
17 than 1 year or a fine of not more than \$500.00, or both.

18 (c) If the person has 2 or more prior convictions, the
19 person is guilty of a felony punishable by imprisonment for not
20 more than 4 years or a fine of not more than \$2,000.00, or both.

21 (8) ~~-(3)-~~ As used in this section, "prior conviction" means
22 a previous violation of this section or a law of another state, a
23 law of a local unit of government of this state or another state,
24 or a law of the United States substantially corresponding to this
25 section.