

HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 189

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
(MCL 333.1101 to 333.25211) by adding section 17766e.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1           SEC. 17766E. (1) EXCEPT AS OTHERWISE PROVIDED UNDER THIS  
2 SECTION, A PERSON WHO POSSESSES EPHEDRINE OR PSEUDOEPHEDRINE FOR  
3 RETAIL SALE PURSUANT TO A LICENSE ISSUED UNDER THE GENERAL SALES  
4 TAX ACT, 1933 PA 167, MCL 205.51 TO 205.78, SHALL MAINTAIN ALL  
5 PRODUCTS THAT CONTAIN ANY COMPOUND, MIXTURE, OR PREPARATION  
6 CONTAINING ANY DETECTABLE QUANTITY OF EPHEDRINE OR PSEUDOEPHEDRINE,  
7 A SALT OR OPTICAL ISOMER OF EPHEDRINE OR PSEUDOEPHEDRINE, OR A SALT  
8 OF AN OPTICAL ISOMER OF EPHEDRINE OR PSEUDOEPHEDRINE IN ACCORDANCE  
9 WITH 1 OF THE FOLLOWING:

10           (A) BEHIND A COUNTER WHERE THE PUBLIC IS NOT PERMITTED.

11           (B) WITHIN A LOCKED CASE SO THAT A CUSTOMER WANTING ACCESS TO

Senate Bill No. 189 (H-1) as amended June 7, 2005

1 THE PRODUCT MUST ASK A STORE EMPLOYEE FOR ASSISTANCE.

2 (C) WITHIN 20 FEET OF A COUNTER THAT ALLOWS THE ATTENDANT TO  
3 VIEW THE PRODUCTS IN AN UNOBSTRUCTED MANNER OR UTILIZE AN ANTITHEFT  
4 DEVICE ON THOSE PRODUCTS THAT USES SPECIAL PACKAGE TAGS AND  
5 DETECTION ALARMS DESIGNED TO PREVENT THEFT ALONG WITH CONSTANT  
6 VIDEO SURVEILLANCE AS FOLLOWS:

7 (i) THE VIDEO CAMERA IS POSITIONED SO THAT INDIVIDUALS  
8 EXAMINING OR REMOVING THOSE PRODUCTS ARE VISIBLE.

9 (ii) THE VIDEO CAMERA IS PROGRAMMED TO RECORD, AT A MINIMUM, A  
10 1-SECOND IMAGE EVERY [5] SECONDS.

11 (iii) THE VIDEO IMAGES MUST BE MAINTAINED FOR A MINIMUM OF 6  
12 MONTHS AND MADE AVAILABLE TO ANY LAW ENFORCEMENT AGENCY UPON  
13 REQUEST.

14 (iv) THE RETAILER SHALL PROMINENTLY DISPLAY A SIGN INDICATING  
15 THAT THE AREA IS UNDER CONSTANT VIDEO SURVEILLANCE IN A CONSPICUOUS  
16 LOCATION, CLEARLY VISIBLE TO THE PUBLIC.

17 (2) IF THE PRODUCTS DESCRIBED UNDER SUBSECTION (1) ARE  
18 MAINTAINED WITHIN 20 FEET OF A COUNTER AND THAT COUNTER IS NOT  
19 STAFFED BY 1 OR MORE EMPLOYEES AT ALL TIMES, THEN THE RETAIL  
20 DISTRIBUTOR SHALL UTILIZE ANTITHEFT DEVICES AND VIDEO SURVEILLANCE  
21 AS PROVIDED UNDER SUBSECTION (1) (C) WHEN THE COUNTER IS NOT  
22 STAFFED. IF ALL OF THE PRODUCTS DESCRIBED UNDER SUBSECTION (1) ARE  
23 MAINTAINED BEHIND THE COUNTER OR WITHIN A LOCKED CASE, THEN THE  
24 RETAILER IS NOT REQUIRED TO MAINTAIN A LOG OR ANY OTHER TYPE OF  
25 RECORD DETAILING THE SALE OF THOSE PRODUCTS.

26 (3) A PERSON WHO SELLS A PRODUCT DESCRIBED IN SUBSECTION (1)  
27 SHALL DO EACH OF THE FOLLOWING:

1           (A) REQUIRE THE PURCHASER OF A PRODUCT DESCRIBED UNDER  
2 SUBSECTION (1) TO PRODUCE A VALID PHOTO IDENTIFICATION THAT  
3 INCLUDES THE INDIVIDUAL'S NAME AND DATE OF BIRTH.

4           (B) EXCEPT AS OTHERWISE PROVIDED UNDER SUBSECTION (2),  
5 MAINTAIN A LOG OR SOME TYPE OF RECORD DETAILING THE SALE OF A  
6 PRODUCT DESCRIBED UNDER SUBSECTION (1), INCLUDING THE DATE OF THE  
7 SALE, THE NAME AND DATE OF BIRTH OF THE BUYER, AND THE AMOUNT AND  
8 DESCRIPTION OF THE PRODUCT SOLD. THE LOG OR OTHER MEANS OF  
9 RECORDING THE SALE AS REQUIRED UNDER THIS SUBDIVISION SHALL BE  
10 MAINTAINED FOR A MINIMUM OF 6 MONTHS AND MADE AVAILABLE TO ONLY A  
11 LAW ENFORCEMENT AGENCY UPON REQUEST. THE LOG OR OTHER MEANS OF  
12 RECORDING THE SALE IS NOT A PUBLIC RECORD AND IS NOT SUBJECT TO THE  
13 FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246. A  
14 PERSON SHALL NOT SELL OR PROVIDE A COPY OF THE LOG OR OTHER MEANS  
15 OF RECORDING THE SALE TO ANOTHER FOR THE PURPOSE OF SURVEYS,  
16 MARKETING, OR SOLICITATIONS.

17           (4) THIS SECTION DOES NOT APPLY TO THE FOLLOWING:

18           (A) A PEDIATRIC PRODUCT PRIMARILY INTENDED FOR ADMINISTRATION  
19 TO CHILDREN UNDER 12 YEARS OF AGE ACCORDING TO LABEL INSTRUCTIONS.

20           (B) A PRODUCT CONTAINING PSEUDOEPHEDRINE THAT IS IN A LIQUID  
21 FORM IF PSEUDOEPHEDRINE IS NOT THE ONLY ACTIVE INGREDIENT.

22           (C) A PRODUCT THAT THE STATE BOARD OF PHARMACY, UPON  
23 APPLICATION OF A MANUFACTURER OR CERTIFICATION BY THE UNITED STATES  
24 DRUG ENFORCEMENT ADMINISTRATION AS INCONVERTIBLE, EXEMPTS FROM THIS  
25 SECTION BECAUSE THE PRODUCT HAS BEEN FORMULATED IN SUCH A WAY AS TO  
26 EFFECTIVELY PREVENT THE CONVERSION OF THE ACTIVE INGREDIENT INTO  
27 METHAMPHETAMINE.

1 (D) A PRODUCT THAT IS DISPENSED PURSUANT TO A PRESCRIPTION.

2 (5) A PERSON WHO VIOLATES THIS SECTION IS RESPONSIBLE FOR A  
3 STATE CIVIL INFRACTION AS PROVIDED UNDER CHAPTER 88 OF THE REVISED  
4 JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.8801 TO 600.8835, AND  
5 MAY BE ORDERED TO PAY A CIVIL FINE OF NOT MORE THAN \$50.00 FOR EACH  
6 VIOLATION.

7 (6) BY DECEMBER 15, 2006, THE DEPARTMENT OF STATE POLICE SHALL  
8 SUBMIT A WRITTEN REPORT TO THE LEGISLATURE REGARDING THE IMPACT AND  
9 EFFECTIVENESS OF THE AMENDATORY ACT THAT ADDED THIS SECTION AND  
10 SECTION 17766F, INCLUDING, BUT NOT LIMITED TO, THE NUMBER OF  
11 CLANDESTINE METHAMPHETAMINE LAB INCIDENTS BEFORE AND AFTER THIS  
12 LEGISLATION.

13 Enacting section 1. This amendatory act takes effect December  
14 15, 2005.

15 Enacting section 2. This amendatory act does not take effect  
16 unless House Bill No. 4322 of the 93rd Legislature is enacted into  
17 law.