

SENATE BILL No. 1479

September 7, 2010, Introduced by Senator BIRKHOLZ and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
(MCL 333.1101 to 333.25211) by adding section 7340a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 7340A. (1) A RETAILER SHALL NOT SELL TO A PERSON PRODUCTS
2 CONTAINING A TOTAL OF MORE THAN 3.6 GRAMS OF EPHEDRINE OR
3 PSEUDOEPHEDRINE, A SALT OF EPHEDRINE OR PSEUDOEPHEDRINE, OR AN
4 ISOMER OF EPHEDRINE OR PSEUDOEPHEDRINE WITHIN A 30-DAY PERIOD OR
5 MORE THAN 9 GRAMS OF PRODUCTS CONTAINING EPHEDRINE OR
6 PSEUDOEPHEDRINE, A SALT OF EPHEDRINE OR PSEUDOEPHEDRINE, OR AN
7 ISOMER OF EPHEDRINE OR PSEUDOEPHEDRINE WITHIN A 30-DAY PERIOD.
8 (2) A PERSON SHALL NOT PURCHASE FROM A RETAILER PRODUCTS
9 CONTAINING A TOTAL OF MORE THAN 3.6 GRAMS OF EPHEDRINE OR

1 PSEUDOEPHEDRINE, A SALT OF EPHEDRINE OR PSEUDOEPHEDRINE, OR AN
2 ISOMER OF EPHEDRINE OR PSEUDOEPHEDRINE WITHIN A 30-DAY PERIOD OR
3 CONTAINING A TOTAL OF MORE THAN 9 GRAMS OF EPHEDRINE OR
4 PSEUDOEPHEDRINE, A SALT OF EPHEDRINE OR PSEUDOEPHEDRINE, OR AN
5 ISOMER OF EPHEDRINE OR PSEUDOEPHEDRINE WITHIN A 30-DAY PERIOD.

6 (3) THE LIMITS DESCRIBED IN SUBSECTIONS (1) AND (2) APPLY TO
7 THE TOTAL AMOUNT OF BASE EPHEDRINE AND PSEUDOEPHEDRINE CONTAINED IN
8 THE PRODUCTS, AND NOT THE OVERALL WEIGHT OF THE PRODUCTS.

9 (4) A RETAILER SHALL REQUIRE ANY PERSON PURCHASING A
10 NONPRESCRIPTION PRODUCT THAT CONTAINS EPHEDRINE OR PSEUDOEPHEDRINE
11 TO PRESENT VALID GOVERNMENT-ISSUED PHOTO IDENTIFICATION AT THE
12 POINT OF SALE. THE RETAILER SHALL RECORD THE NAME, ADDRESS, AND
13 DATE OF BIRTH OF THE PURCHASER; NAME AND QUANTITY OF PRODUCT
14 PURCHASED; DATE AND TIME PURCHASED; AND PURCHASER IDENTIFICATION
15 TYPE AND NUMBER, SUCH AS DRIVER LICENSE STATE AND NUMBER, AND SHALL
16 REQUIRE THE PURCHASER'S SIGNATURE IN A LOGBOOK.

17 (5) BEGINNING JANUARY 1, 2011, A RETAILER SHALL, BEFORE
18 COMPLETING A SALE UNDER THIS SECTION, ELECTRONICALLY SUBMIT THE
19 REQUIRED INFORMATION TO THE NATIONAL PRECURSOR LOG EXCHANGE (NPLEX)
20 ADMINISTERED BY THE NATIONAL ASSOCIATION OF DRUG DIVERSION
21 INVESTIGATORS (NADDI). ABSENT NEGLIGENCE, WANTONNESS, RECKLESSNESS,
22 OR DELIBERATE MISCONDUCT, ANY RETAILER UTILIZING THE ELECTRONIC
23 SALES TRACKING SYSTEM IN ACCORDANCE WITH THIS SUBSECTION IS NOT
24 CIVILLY LIABLE AS A RESULT OF ANY ACT OR OMISSION IN CARRYING OUT
25 THE DUTIES REQUIRED BY THIS SUBSECTION AND IS IMMUNE FROM LIABILITY
26 TO ANY THIRD PARTY UNLESS THE RETAILER HAS VIOLATED ANY PROVISION
27 OF THIS SUBSECTION IN RELATION TO A CLAIM BROUGHT FOR THAT

1 VIOLATION.

2 (6) IF A RETAILER SELLING A NONPRESCRIPTION PRODUCT CONTAINING
3 EPHEDRINE OR PSEUDOEPHEDRINE EXPERIENCES MECHANICAL OR ELECTRONIC
4 FAILURE OF THE ELECTRONIC SALES TRACKING SYSTEM AND IS UNABLE TO
5 COMPLY WITH THE ELECTRONIC SALES TRACKING REQUIREMENT, THE RETAILER
6 SHALL MAINTAIN A WRITTEN LOG OR AN ALTERNATIVE ELECTRONIC RECORD-
7 KEEPING MECHANISM UNTIL SUCH TIME AS THE RETAILER IS ABLE TO COMPLY
8 WITH THE ELECTRONIC SALES TRACKING REQUIREMENT.

9 (7) NADDI SHALL FORWARD STATE TRANSACTION RECORDS IN NPLEX TO
10 THE DEPARTMENT OF STATE POLICE WEEKLY AND SHALL PROVIDE REAL-TIME
11 ACCESS TO NPLEX INFORMATION THROUGH THE NPLEX ONLINE PORTAL TO LAW
12 ENFORCEMENT IN THIS STATE AS AUTHORIZED BY THE AGENCY.

13 (8) THE SYSTEM DESCRIBED IN SUBSECTION (5) SHALL BE CAPABLE OF
14 GENERATING A STOP SALE ALERT NOTIFYING THE RETAILER THAT COMPLETION
15 OF THE SALE WILL RESULT IN THE SELLER'S OR PURCHASER'S VIOLATING
16 THE QUANTITY LIMITS SET FORTH IN THIS SECTION. THE SELLER SHALL NOT
17 COMPLETE THE SALE IF THE SYSTEM GENERATES A STOP SALE ALERT. THE
18 SYSTEM SHALL CONTAIN AN OVERRIDE FUNCTION THAT MAY BE USED BY A
19 DISPENSER OF EPHEDRINE OR PSEUDOEPHEDRINE WHO HAS A REASONABLE FEAR
20 OF IMMINENT BODILY HARM IF THE DISPENSER DOES NOT COMPLETE A SALE.
21 EACH INSTANCE IN WHICH THE OVERRIDE FUNCTION IS UTILIZED SHALL BE
22 LOGGED BY THE SYSTEM.

23 (9) A VIOLATION OF THIS SECTION IS A MISDEMEANOR PUNISHABLE BY
24 A FINE OF NOT MORE THAN \$500.00. IF A PRODUCT IS DISPENSED IN
25 VIOLATION OF SUBSECTION (1), THE OWNER OR OPERATOR OF THE WHOLESALE
26 OR RETAIL ESTABLISHMENT DISPENSING THE PRODUCT IS IN VIOLATION OF
27 SUBSECTION (1).

1 (10) THIS SECTION DOES NOT APPLY TO A PERSON WHO OBTAINS THE
2 PRODUCT PURSUANT TO A VALID PRESCRIPTION.