

Act No. 84
Public Acts of 2011
Approved by the Governor
July 15, 2011
Filed with the Secretary of State
July 15, 2011
EFFECTIVE DATE: July 15, 2011

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2011**

Introduced by Senators Proos, Schuitmaker, Booher, Pappageorge, Caswell, Marleau, Jones, Brandenburg, Meekhof, Nofs, Kowall, Casperson, Colbeck, Hildenbrand, Walker and Emmons

ENROLLED SENATE BILL No. 333

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," (MCL 333.1101 to 333.25211) by adding section 7340a.

The People of the State of Michigan enact:

Sec. 7340a. (1) Beginning January 1, 2012, a retailer shall, before completing a sale under section 17766f, electronically submit the required information to the national precursor log exchange (NPLeX) administered by the national association of drug diversion investigators (NADDI). A retailer shall not be required to pay a fee for using the NPLeX system.

(2) If a retailer selling a nonprescription product containing ephedrine or pseudoephedrine experiences mechanical or electronic failure of the electronic sales tracking system and is unable to comply with the electronic sales tracking requirement, the retailer shall maintain a written log or an alternative electronic record-keeping mechanism until such time as the retailer is able to comply with the electronic sales tracking requirement.

(3) NADDI shall provide real-time access to NPLeX information through the NPLeX online portal to law enforcement in this state as authorized by state and federal law.

(4) The system described in subsection (1) shall be capable of generating a stop sale alert notifying the retailer that completion of the sale will result in the seller's or purchaser's violating the quantity limits set forth in section 17766f. The seller shall not complete the sale if the system generates a stop sale alert. The system shall contain an override function that may be used by a dispenser of ephedrine or pseudoephedrine who has a reasonable fear of imminent bodily harm if the dispenser does not complete a sale. Each instance in which the override function is utilized shall be logged by the system.

(5) A person's failure to comply with the record-keeping or sales verification requirements of this section does not create a civil cause of action for damages to any other person arising out of that failure absent a direct and proximate cause, and the person is immune from civil liability for any damages arising out of that failure.

(6) A person who violates this section is guilty of a misdemeanor punishable by a fine of not more than \$500.00.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 4749 of the 96th Legislature is enacted into law.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Sam E. Randall

Clerk of the House of Representatives

Approved

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Governor

Compiler's note: House Bill No. 4749, referred to in enacting section 1, was filed with the Secretary of State July 15, 2011, and became 2011 PA 86, Imd. Eff. July 15, 2011.