

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4996

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:

1 TITLE

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

7 SEC. 2A. (1) A PERSON SHALL NOT SELL OR OTHERWISE
8 DISTRIBUTE TO ANOTHER PERSON ANY DEVICE THAT CONTAINS ANY
9 QUANTITY OF NITROUS OXIDE OR SELL OR OTHERWISE DISTRIBUTE A

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1 DEVICE TO DISPENSE NITROUS OXIDE FOR THE PURPOSE OF CAUSING A
2 CONDITION OF INTOXICATION, EUPHORIA, EXCITEMENT, EXHILARATION,
3 STUPEFACTION, OR DULLING OF THE SENSES OR NERVOUS SYSTEM. THIS
4 SUBSECTION DOES NOT APPLY TO NITROUS OXIDE THAT HAS BEEN DENATURED
OR OTHERWISE RENDERED UNFIT FOR HUMAN CONSUMPTION OR TO ANY OF THE
FOLLOWING:

5 (A) A PERSON LICENSED UNDER THE FOOD PROCESSING ACT OF 1977,
6 1978 PA 328, MCL 289.801 TO 289.810, OR CHAPTER VII OF THE FOOD
7 LAW OF 2000, 2000 PA 92, MCL 289.7101 TO 289.7137, WHO SELLS OR
8 OTHERWISE DISTRIBUTES THE DEVICE AS A GROCERY PRODUCT.

9 (B) A PERSON ENGAGED IN THE BUSINESS OF SELLING OR DISTRIB-
10 UTING CATERING SUPPLIES ONLY OR FOOD PROCESSING EQUIPMENT ONLY, OR
SELLING OR DISTRIBUTING COMPRESSED GASES FOR INDUSTRIAL OR MEDICAL
USE WHO SELLS OR
11 OTHERWISE DISTRIBUTES THE DEVICE IN THE COURSE OF THAT BUSINESS.

12 (C) A PHARMACIST, PHARMACIST INTERN, OR PHARMACY AS DEFINED
13 IN SECTION 17707 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL
14 333.17707, WHO DISPENSES THE DEVICE IN THE COURSE OF HIS OR HER
15 DUTIES AS A PHARMACIST OR PHARMACIST INTERN OR AS A PHARMACY.

16 (D) A HEALTH CARE PROFESSIONAL.

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

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

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

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

4 (3) AS USED IN THIS SECTION, "PRIOR CONVICTION" MEANS A PRE-
5 VIOUS VIOLATION OF THIS SECTION OR A LAW OF ANOTHER STATE, A LAW
6 OF A LOCAL UNIT OF GOVERNMENT OF THIS STATE OR ANOTHER STATE, OR
7 A LAW OF THE UNITED STATES SUBSTANTIALLY CORRESPONDING TO THIS
8 SECTION.

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

13 Enacting section 1. Section 4 of 1967 PA 119, MCL 752.274,
14 is repealed.

15 Enacting section 2. This amendatory act takes effect
16 January 1, 2001.