



# HOUSE BILL No. 5313

October 25, 1995, Introduced by Rep. Byl and referred to the Committee on Conservation, Environment and Great Lakes.

A bill to amend section 2 of Act No. 188 of the Public Acts of 1965, entitled as amended "Hazardous substances act," being section 286.452 of the Michigan Compiled Laws.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1 Section 1. Section 2 of Act No. 188 of the Public Acts of  
2 1965, as amended, being section 286.452 of the Michigan Compiled  
3 Laws, is amended to read as follows:

4 Sec. 2. As used in this act:

5 (a) "Agency" means the department of agriculture.

6 (b) "Administrator" means the director of the department of  
7 agriculture or an authorized representative or agent of the  
8 director.

9 (c) "~~Intrastate~~ INTRASTATE commerce" means commerce  
10 within this state and subject to the jurisdiction of this state

1 ~~and~~ and includes the operation of a business or service  
2 establishment.

3 (d) "Hazardous substance" means ANY OF THE FOLLOWING:

4 (i) A substance, mixture of substances, or article ~~which~~  
5 THAT is toxic, corrosive, an irritant, a strong sensitizer, flam-  
6 mable, or generates pressure through decomposition, heat or other  
7 means, if that substance, mixture of substances, or article may  
8 cause substantial personal injury or substantial illness during  
9 or as a proximate result of a customary or reasonably foreseeable  
10 handling or use by the public, including reasonably foreseeable  
11 ingestion by children.

12 (ii) A substance ~~which~~ THAT the administrator by rule  
13 finds, pursuant to section 3, meets the requirements of subpara-  
14 graph (i).

15 (iii) A radioactive substance, if, with respect to that sub-  
16 stance as used in a particular class of article or as packaged  
17 for public use, the administrator determines by rule that the  
18 substance is sufficiently hazardous to require labeling pursuant  
19 to this act in order to protect the public health.

20 (iv) A toy or other article intended for use by children  
21 ~~which~~ THAT the administrator determines by rule to be an elec-  
22 trical, mechanical, or thermal hazard to children.

23 Hazardous substance does not apply to economic poisons  
24 subject to ~~Act No. 171 of the Public Acts of 1976, being sec-~~  
25 ~~tions 286.551 to 286.581~~ PART 83 (PESTICIDE CONTROL) OF THE NAT-  
26 URAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, ACT NO. 451 OF  
27 THE PUBLIC ACTS OF 1994, BEING SECTIONS 324.8301 TO 324.8336 of

1 the Michigan Compiled Laws, or the federal insecticide,  
2 fungicide, and rodenticide act, ~~7 U.S.C. 135 to 135k, nor~~  
3 CHAPTER 125, 86 STAT. 973, 7 U.S.C. 136 TO 136i AND 136j TO 136y,  
4 OR to foods, drugs, and cosmetics ~~which~~ THAT are subject to the  
5 federal food, drug, and cosmetic act, ~~21 U.S.C. 301 to 392~~  
6 CHAPTER 675, 52 STAT. 1040, 21 U.S.C. 301 TO 321, 331 TO 333, 334  
7 TO 343-2, 344 TO 346a, 347, 348 TO 353, 355 TO 360, 360b TO  
8 360dd, 360hh TO 363, 371 TO 376, AND 378 TO 395, or ~~which~~ THAT  
9 would be subject to that act if in interstate commerce.

10 Hazardous substance does not apply to substances intended for use  
11 as fuels when stored in containers and used in the heating, cook-  
12 ing, or refrigeration system of a house, and does not include a  
13 source material, special nuclear material, or byproduct material  
14 as defined in the atomic energy act of 1954, ~~42 U.S.C. 2011 to~~  
15 ~~2282~~ CHAPTER 1073, 68 STAT. 919, and regulations issued pursuant  
16 to that act by the atomic energy commission. Hazardous substance  
17 applies to an article which is not itself an economic poison  
18 within the meaning of the federal insecticide, fungicide, and  
19 rodenticide act, ~~7 U.S.C. 135 to 135k,~~ but which is a hazard-  
20 ous substance within the meaning of subdivision (d)(i) by reason  
21 of bearing or containing an economic poison.

22 (e) "Toxic" means a substance, other than a radioactive sub-  
23 stance, ~~which~~ THAT has the capacity to produce personal injury  
24 or illness to human beings through ingestion, inhalation, or  
25 absorption through a body surface.

26 (f) "Highly toxic" means a substance ~~which~~ THAT falls  
27 within any of the following categories:

1 (i) Produces death within 14 days in 1/2 or more than 1/2 of  
2 a group of 10 or more laboratory white rats each weighing between  
3 200 and 300 grams, at a single dose of 50 milligrams or less per  
4 kilogram of body weight, when orally administered.

5 (ii) Produces death within 14 days in 1/2 or more than 1/2  
6 of a group of 10 or more laboratory white rats each weighing  
7 between 200 and 300 grams, if inhaled continuously for a period  
8 of 1 hour or less at an atmosphere concentration of 200 parts per  
9 million by volume or less of gas or vapor or 2 milligrams per  
10 liter by volume or less of mist or dust, if the concentration is  
11 likely to be encountered by human beings if the substance is used  
12 in a reasonably foreseeable manner.

13 (iii) Produces death within 14 days in 1/2 or more than 1/2  
14 of a group of 10 or more rabbits tested in a dosage of 200 milli-  
15 grams or less per kilogram of body weight, if administered by  
16 continuous contact with the bare skin for 24 hours or less.

17 If the administrator finds that available data on human  
18 experience with a substance indicate results different from those  
19 obtained on animals in the above named dosages or concentrations,  
20 the human data shall take precedence.

21 (g) "Corrosive" means a substance which, in contact with  
22 living tissue, will cause destruction of tissue by chemical  
23 action, ~~but shall~~ DOES not refer to action on inanimate  
24 surfaces.

25 (h) "Irritant" means a substance not corrosive within the  
26 meaning of subdivision (g) which on immediate, prolonged, or

1 repeated contact with normal living tissue will induce a local  
2 inflammatory reaction.

3 (i) "Strong sensitizer" means a substance which will cause  
4 on normal living tissue through an allergic or photodynamic pro-  
5 cess a hypersensitivity which becomes evident on reapplication of  
6 the same substances and which is designated as a strong sensi-  
7 tizer by the administrator. Before designating a substance as a  
8 strong sensitizer, the administrator, upon consideration of the  
9 frequency of occurrence and severity of the reaction, shall find  
10 that the substance has a significant potential for causing  
11 hypersensitivity.

12 (j) "Extremely flammable" means a substance which has a  
13 flash point at or below 20 degrees Fahrenheit as determined by  
14 the Tagliabue open cup tester. "Flammable" means a substance  
15 which has a flash point of above 20 degrees and at or below 80  
16 degrees Fahrenheit, as determined by the Tagliabue open cup  
17 tester; except that the flammability of solids and of the con-  
18 tents of self-pressurized containers shall be determined by  
19 methods found by the administrator to be generally applicable to  
20 those materials or containers, and established by rules promul-  
21 gated by the administrator, which rules shall also define the  
22 terms, flammable and extremely flammable, pursuant to those  
23 methods.

24 (k) "Radioactive substance" means a substance ~~which~~ THAT  
25 emits ionizing radiation.

26 (l) "Label" means a display of written, printed, or graphic  
27 matter upon the immediate container of a substance. If on an

1 article which is unpackaged or is not packaged in an immediate  
2 container intended or suitable for delivery to the ultimate con-  
3 sumer, label means a display of written, printed, or graphic  
4 matter directly upon the article involved or upon a tag or other  
5 suitable material affixed to the article. A requirement made  
6 under the authority of this act that a word, statement, or other  
7 information appear on the label, shall not be considered to be  
8 complied with unless that word, statement, or other information  
9 also appears on the outside container or wrapper, if there is  
10 one, unless it is easily legible through the outside container or  
11 wrapper, and on all accompanying literature, if there are direc-  
12 tions for the use, written or otherwise.

13 (m) "Immediate container" does not include package liners.

14 (n) "Misbranded hazardous substance" means a hazardous sub-  
15 stance, including a toy, or other article intended for use by  
16 children, which is a hazardous substance, or which bears or con-  
17 tains a hazardous substance in a manner which is susceptible of  
18 access by a child to whom the toy or other article is entrusted,  
19 intended, or which is packaged in a form suitable for use in the  
20 household or by children, which substance, except as provided by  
21 section 3, fails to bear a label:

22 (i) Which states conspicuously, the following:

23 (A) ~~(a)~~ The name and place of business of the manufactur-  
24 er, packer, distributor, or seller.

25 (B) ~~(b)~~ The common or usual name, or the chemical name, if  
26 there is not a common or usual name, of the hazardous substance  
27 or of each component which contributes substantially to its

1 hazard, unless the administrator by rule permits or requires the  
2 use of a recognized generic name.

3 (C) ~~(c)~~ The signal word, "DANGER", on substances which are  
4 extremely flammable, corrosive, or highly toxic.

5 (D) ~~(d)~~ The signal word, "WARNING" or "CAUTION", on other  
6 hazardous substances.

7 (E) ~~(e)~~ An affirmative statement of the principal hazard,  
8 or hazards, such as "Flammable", "Vapor Harmful", "Causes Burns",  
9 "Absorbed Through Skin", or similar wording descriptive of the  
10 hazard.

11 (F) ~~(f)~~ Precautionary measures describing the action to be  
12 followed or avoided, except if modified by rule of the adminis-  
13 trator pursuant to section 3.

14 (G) ~~(g)~~ Instruction, if necessary or appropriate, for  
15 first aid treatment.

16 (H) ~~(h)~~ The word, "POISON", for a hazardous substance  
17 which is defined as highly toxic by subdivision (f).

18 (I) ~~(i)~~ Instructions for handling and storage of packages  
19 which require special care in handling or storage.

20 (J) ~~(j)~~ The statement, "Keep out of the reach of  
21 children", or its practical equivalent, or if the article is  
22 intended for use by children and is not a banned hazardous sub-  
23 stance, adequate directions for the protection of children from  
24 the hazard.

25 (ii) On which a statement is required under subparagraph (i)  
26 located prominently and in the English language in conspicuous

1 and legible type in contrast by typography, layout, or color with  
2 other printed matter on the label.

3 (o) "Banned hazardous substance" means any of the  
4 following:

5 (i) A toy or other article intended for use by children,  
6 which is a hazardous substance or which bears or contains a haz-  
7 ardous substance accessible to a child to whom the toy or other  
8 article is entrusted. The administrator by rule shall:

9 (A) ~~(a)~~ Exempt articles, such as chemical sets, which by  
10 reason of their functional purpose require the inclusion of the  
11 hazardous substance involved, and which bear labeling that gives  
12 adequate directions and warning for safe use and are intended for  
13 use by children of sufficient maturity and may reasonably be  
14 expected to read and heed the directions and warnings.

15 (B) ~~(b)~~ Exempt and provide for the labeling of common  
16 fireworks for which a permit is not required pursuant to section  
17 243a(3)(a), (b), (c), (d), and (e) of THE MICHIGAN PENAL CODE,  
18 Act No. 328 of the Public Acts of 1931, ~~as amended,~~ being sec-  
19 tion 750.243a of the Michigan Compiled Laws, to the extent that  
20 the administrator determines that those articles can be ade-  
21 quately labeled to protect the purchasers and users of the  
22 articles.

23 (ii) A hazardous substance intended or packaged in a form  
24 suitable for use in the household, which the administrator by  
25 rule classifies as a banned hazardous substance on the basis of a  
26 finding that notwithstanding the cautionary labeling required  
27 under this act for that substance, the degree or nature of the



1 hazard involved in the presence or use of the substance in  
2 households is so hazardous that the protection of the public  
3 health and safety can be adequately promoted only by keeping the  
4 substance, if so intended or packaged, out of intrastate  
5 commerce.

6 (p) "Electrical hazard" means a hazard which results if an  
7 electrical toy in normal use or if subjected to reasonably fore-  
8 seeable damage or abuse may, because of its design or manufac-  
9 ture, cause personal injury or illness by electric shock.

10 (q) "Mechanical hazard" means a hazard ~~which~~ THAT results  
11 if a mechanical toy in normal use or if subjected to reasonably  
12 foreseeable damage or abuse presents, because of its design or  
13 manufacture, an unreasonable risk of personal injury or illness  
14 from 1 or more of the following:

15 (i) From fracture, fragmentation, or disassembly of the  
16 toy.

17 (ii) From propulsion of the toy or a part or accessory of  
18 the toy.

19 (iii) From a point or other ~~protusion~~ PROTRUSION, surface,  
20 edge, opening, or closure.

21 (iv) From a moving part.

22 (v) From an insufficiency of controls to reduce or stop  
23 motion.

24 (vi) From the self-adhering characteristics of the toy.

25 (vii) Because the toy or a part or accessory of the toy may  
26 be aspirated or ingested.

1 (viii) Because of instability.

2 (ix) Because of another aspect of the toy's design or  
3 manufacture.

4 (r) "Thermal hazard" means a hazard ~~which~~ THAT results if  
5 a thermal toy in normal use or if subjected to reasonably fore-  
6 seeable damage or abuse presents, because of the toy's design or  
7 manufacture, an unreasonable risk of personal injury or illness  
8 because of heat from heated parts, substances, or surfaces.

9 (s) "Manufacturer" means a person, partnership, sole propri-  
10 etorship, association, or corporation engaged in the manufacture  
11 of thermal, mechanical, or electrical toys.

12 (t) "Retailer" means a person, partnership, sole proprietor-  
13 ship, association, or corporation who customarily sells thermal,  
14 mechanical, or electrical toys to the consumer.

15 (u) "Wholesaler" means a person, partnership, sole proprie-  
16 torship, association, or corporation who sells thermal, mechani-  
17 cal, or electrical toys to retailers.