

# HOUSE BILL No. 5088

October 22, 2013, Introduced by Reps. Kivela, Knezek, Dianda, Driskell, Schor, LaVoy, Roberts, Cochran, Heise, McBroom, Bumstead, LaFontaine, Pettalia, Kelly, O'Brien, Lori, Graves, Schmidt, Yanez, Brunner, Kurtz, Rendon, Geiss, Haugh, Kandrevas, Durhal, Brown, Kesto, Foster, Victory, Dillon, MacGregor, MacMaster, Pscholka, Kosowski, Somerville, Haveman, Haines, Glardon, Callton, Yonker, Johnson, Greimel and Santana and referred to the Committee on Criminal Justice.

A bill to amend 1978 PA 368, entitled  
 "Public health code,"  
 by amending section 7340a (MCL 333.7340a), as added by 2011 PA 84,  
 and by adding section 7340b.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

7           (2) If a retailer selling a nonprescription product containing

1 ephedrine or pseudoephedrine experiences mechanical or electronic  
2 failure of the electronic sales tracking system and is unable to  
3 comply with the electronic sales tracking requirement, the retailer  
4 shall maintain a written log or an alternative electronic record-  
5 keeping mechanism until such time as the retailer is able to comply  
6 with the electronic sales tracking requirement.

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

10 (4) The system described in subsection (1) shall be capable of  
11 generating a stop sale alert notifying the retailer that completion  
12 of the sale will result in the seller's or purchaser's violating  
13 the quantity limits set forth in section 17766f, **OR THAT THE**  
14 **INTERNET CRIMINAL HISTORY TOOL (ICHAT) MAINTAINED BY THE DEPARTMENT**  
15 **OF STATE POLICE SHOWS THAT THE PURCHASER WAS CONVICTED OF A FELONY**  
16 **VIOLATION OF ARTICLE 7. The—EXCEPT AS PROVIDED IN SECTION 7340B(2),**  
17 **THE** seller shall not complete the sale if the system generates a  
18 stop sale alert. The system shall contain an override function that  
19 may be used by a dispenser of ephedrine or pseudoephedrine who has  
20 a reasonable fear of imminent bodily harm if the dispenser does not  
21 complete a sale. Each instance in which the override function is  
22 utilized shall be logged by the system.

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

1 failure.

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

4 **SEC. 7340B. (1) THE DEPARTMENT OF STATE POLICE SHALL MAKE**  
5 **INFORMATION FROM THE INTERNET CRIMINAL HISTORY TOOL (ICHA)**  
6 **MAINTAINED BY THE DEPARTMENT OF STATE POLICE AVAILABLE FREE OF**  
7 **CHARGE TO THE NATIONAL PRECURSOR LOG EXCHANGE (NPLEX) FOR PURPOSES**  
8 **OF SECTION 7340A.**

9 (2) A RETAILER SHALL NOT SELL A PRODUCT CONTAINING EPHEDRINE  
10 OR PSEUDOEPHEDRINE TO A PURCHASER IF THE NPLEX SYSTEM GENERATES A  
11 STOP SALE ALERT ON GROUNDS THAT THE ICHAT MAINTAINED BY THE  
12 DEPARTMENT OF STATE POLICE SHOWS THE PURCHASER WAS CONVICTED OF A  
13 FELONY VIOLATION OF ARTICLE 7. THIS SUBSECTION DOES NOT PROHIBIT  
14 THE PERSON FROM PURCHASING A PRODUCT CONTAINING EPHEDRINE OR  
15 PSEUDOEPHEDRINE PURSUANT TO A PRESCRIPTION.

16 Enacting section 1. This amendatory act does not take effect  
17 unless Senate Bill No. \_\_\_\_ or House Bill No. 5089 (request no.  
18 03156'13) of the 97th Legislature is enacted into law.