

# SENATE BILL No. 893

January 17, 2012, Introduced by Senators WARREN, ANDERSON, BIEDA, GLEASON, GREGORY, HOPGOOD, SMITH and HUNTER and referred to the Committee on Government Operations.

A bill to amend 1978 PA 368, entitled "Public health code," (MCL 333.1101 to 333.25211) by adding sections 5495, 5496, 5497, and 5498.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1           SEC. 5495. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,  
2 BEFORE OFFERING FOR SALE IN THIS STATE A CHILDREN'S PRODUCT THAT  
3 CONTAINS A CHEMICAL OF GREATEST CONCERN, A MANUFACTURER OR  
4 DISTRIBUTOR SHALL SUBMIT TO THE DEPARTMENT A WRITTEN STATEMENT AS  
5 DESCRIBED IN SUBSECTION (2). HOWEVER, IF THE CHILDREN'S PRODUCT IS  
6 ALREADY BEING OFFERED FOR SALE IN THIS STATE BY THE MANUFACTURER OR  
7 DISTRIBUTOR WHEN THE CHEMICAL OF GREATEST CONCERN IS LISTED BY THE

1 DEPARTMENT, THE MANUFACTURER OR DISTRIBUTOR SHALL SUBMIT THE  
2 STATEMENT DESCRIBED IN SUBSECTION (2) BY 180 DAYS AFTER THE DATE ON  
3 WHICH THE CHEMICAL OF GREATEST CONCERN WAS LISTED.

4 (2) A MANUFACTURER OR DISTRIBUTOR SHALL INCLUDE ALL OF THE  
5 FOLLOWING IN THE WRITTEN STATEMENT REQUIRED UNDER SUBSECTION (1):

6 (A) THE MANUFACTURER'S OR DISTRIBUTOR'S NAME, ADDRESS,  
7 TELEPHONE NUMBER, AND ELECTRONIC MAIL ADDRESS.

8 (B) IDENTIFICATION OF THE CHILDREN'S PRODUCT.

9 (C) THE CHEMICALS OF GREATEST CONCERN CONTAINED IN THE  
10 CHILDREN'S PRODUCT.

11 (D) THE AMOUNT OF EACH CHEMICAL OF GREATEST CONCERN CONTAINED  
12 IN THE CHILDREN'S PRODUCT.

13 (E) THE PURPOSE OF EACH CHEMICAL OF GREATEST CONCERN CONTAINED  
14 IN THE CHILDREN'S PRODUCT.

15 (3) THE FOLLOWING ARE EXEMPT FROM THE WRITTEN STATEMENT  
16 REQUIREMENT OF SUBSECTION (1):

17 (A) A RETAILER, UNLESS THE RETAILER IS ALSO A MANUFACTURER OR  
18 DISTRIBUTOR, OR BOTH.

19 (B) USES OF CHEMICALS OF GREATEST CONCERN FOR INDUSTRIAL OR  
20 MANUFACTURING PURPOSES.

21 (C) MOTOR VEHICLES OR THEIR COMPONENT PARTS, EXCEPT THAT THE  
22 USE OF CHEMICALS OF GREATEST CONCERN IN DETACHABLE CAR SEATS IS NOT  
23 EXEMPT.

24 (D) CHEMICALS OF GREATEST CONCERN GENERATED SOLELY AS  
25 COMBUSTION BY-PRODUCTS OR THAT ARE PRESENT IN COMBUSTIBLE FUELS.

26 (4) THE DEPARTMENT MAY EXTEND THE DEADLINE FOR SUBMISSION OF  
27 THE WRITTEN STATEMENT UNDER SUBSECTION (1) FOR 1 OR MORE SPECIFIED

1 USES OF A CHEMICAL OF GREATEST CONCERN IN A CHILDREN'S PRODUCT IF  
2 THE DEPARTMENT DETERMINES THAT MORE TIME IS NEEDED BY THE  
3 MANUFACTURER OR DISTRIBUTOR TO COMPLY.

4 (5) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, BY JULY 1,  
5 2012 AND ANNUALLY THEREAFTER, A MANUFACTURER SHALL REPORT TO THE  
6 DEPARTMENT WHETHER A SCREENING INFORMATION DATA SET, AS SPECIFIED  
7 BY THE ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT, OR  
8 EQUIVALENT INFORMATION EXISTS FOR EACH CHEMICAL INTENTIONALLY ADDED  
9 TO A CHILDREN'S PRODUCT THAT THE MANUFACTURER SOLD IN THIS STATE IN  
10 THE CURRENT OR PRIOR CALENDAR YEAR.

11 (6) A MANUFACTURER OR DISTRIBUTOR OF A CHILDREN'S PRODUCT SOLD  
12 IN THIS STATE IS EXEMPT FROM SUBSECTION (1) AND A MANUFACTURER IS  
13 EXEMPT FROM SUBSECTION (5) IF THE QUANTITY OF THAT CHILDREN'S  
14 PRODUCT SOLD IN THIS STATE BY THAT MANUFACTURER OR DISTRIBUTOR IN  
15 THE PRIOR CALENDAR YEAR OR TO BE SOLD IN THE CURRENT CALENDAR YEAR  
16 IS 3,000 UNITS OR LESS.

17 (7) NOT MORE THAN 30 DAYS AFTER RECEIPT OF INFORMATION IN A  
18 WRITTEN STATEMENT OR REPORT UNDER THIS SECTION, THE DEPARTMENT  
19 SHALL POST THE INFORMATION ON ITS WEBSITE IN AN EASILY  
20 UNDERSTANDABLE FORM.

21 SEC. 5496. THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT  
22 OF ENVIRONMENTAL QUALITY, MAY PROMULGATE RULES UNDER THE  
23 ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO  
24 24.328, TO IMPLEMENT THIS PART.

25 SEC. 5497. (1) IF A MANUFACTURER OR DISTRIBUTOR VIOLATES A  
26 REQUIREMENT OF SECTION 5495 OR RULES PROMULGATED TO IMPLEMENT  
27 SECTION 5495 AND THE VIOLATION CONTINUES FOR MORE THAN 90 DAYS, THE

1 DEPARTMENT MAY TAKE ENFORCEMENT ACTION, ASSESS CIVIL FINES UNDER  
2 SUBSECTION (2), AND REQUEST THE ATTORNEY GENERAL TO INITIATE  
3 PROCEEDINGS TO ENJOIN THE SALE OF CHILDREN'S PRODUCTS IN THIS STATE  
4 BY THAT MANUFACTURER OR DISTRIBUTOR.

5 (2) SUBJECT TO SUBSECTION (3), A MANUFACTURER OR DISTRIBUTOR  
6 THAT VIOLATES SECTION 5495 OR RULES PROMULGATED TO IMPLEMENT  
7 SECTION 5495 IS SUBJECT TO THE FOLLOWING:

8 (A) FOR A FIRST VIOLATION, A CIVIL FINE OF NOT MORE THAN  
9 \$5,000.00.

10 (B) FOR A SECOND VIOLATION, A CIVIL FINE OF NOT MORE THAN  
11 \$25,000.00.

12 (C) FOR A THIRD OR SUBSEQUENT VIOLATION, A CIVIL FINE OF NOT  
13 MORE THAN \$50,000.00.

14 (D) FOR A KNOWING VIOLATION, A CIVIL FINE OF NOT MORE THAN  
15 \$150,000.00.

16 (3) THE DEPARTMENT SHALL WAIVE A CIVIL FINE IMPOSED UNDER THIS  
17 SECTION IF THE MANUFACTURER OR DISTRIBUTOR ACTS IN GOOD FAITH TO  
18 COMPLY WITH SECTION 5495 AND RULES PROMULGATED TO IMPLEMENT SECTION  
19 5495, PURSUES COMPLIANCE WITH DUE DILIGENCE, AND PROMPTLY CORRECTS  
20 ANY NONCOMPLIANCE AFTER DISCOVERY OF THE VIOLATION.

21 SEC. 5498. (1) THE CHILDREN'S SAFE PRODUCTS FUND IS CREATED  
22 WITHIN THE STATE TREASURY.

23 (2) THE DEPARTMENT SHALL TRANSMIT ALL CIVIL FINES COLLECTED  
24 UNDER THIS PART TO THE STATE TREASURER FOR DEPOSIT INTO THE FUND.  
25 THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS FROM ANY  
26 OTHER SOURCE FOR DEPOSIT INTO THE FUND. THE STATE TREASURER SHALL  
27 DIRECT THE INVESTMENT OF THE FUND AND SHALL CREDIT TO THE FUND

1 INTEREST EARNINGS FROM FUND INVESTMENTS. MONEY IN THE FUND AT THE  
2 CLOSE OF THE FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT  
3 LAPSE TO THE GENERAL FUND. THE DEPARTMENT SHALL BE THE  
4 ADMINISTRATOR OF THE FUND FOR AUDITING PURPOSES.

5 (3) THE DEPARTMENT SHALL EXPEND MONEY FROM THE FUND, UPON  
6 APPROPRIATION, ONLY FOR THE PURPOSE OF ADMINISTERING AND CARRYING  
7 OUT DUTIES REQUIRED BY THIS PART.

8 Enacting section 1. This amendatory act shall be known and may  
9 be cited as the "safe children's products act".

10 Enacting section 2. This amendatory act does not take effect  
11 unless Senate Bill No. 894

12 of the 96th Legislature is enacted into law.