

SENATE BILL No. 535

September 24, 2013, Introduced by Senators PROOS, BOOHER and JONES and referred to the Committee on Judiciary.

A bill to create the methamphetamine abuse registration act; to create a registry of individuals convicted of methamphetamine-related offenses; to require persons who sell, distribute, deliver, or furnish products containing ephedrine or pseudoephedrine to examine the methamphetamine abuser registry before selling, distributing, delivering, or furnishing those products; to prohibit the sale of products containing ephedrine or pseudoephedrine to certain individuals without a prescription; to prohibit the disclosure of certain confidential information; to provide civil immunity under certain circumstances; and to provide remedies and penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "methamphetamine abuse registration act".

3 Sec. 2. As used in this act:

4 (a) "Convicted" means either of the following:

5 (i) Having a judgment of conviction or a probation order
6 entered in any court having jurisdiction over criminal offenses,
7 including a tribal court or a military court, and including a
8 conviction subsequently set aside under 1965 PA 213, MCL 780.621 to
9 780.624, or under section 7411 of the public health code, 1978 PA
10 368, MCL 333.7411.

11 (ii) Being assigned to youthful trainee status under sections
12 11 to 15 of chapter II of the code of criminal procedure, 1927 PA
13 175, MCL 762.11 to 762.15.

14 (b) "Department" means the department of state police.

15 (c) "Methamphetamine-related offense" means 1 or more of the
16 following:

17 (i) A violation of article 7 of the public health code, 1978 PA
18 368, MCL 333.7101 to 333.7545, involving methamphetamine.

19 (ii) A violation of section 17766c or 17766f of the public
20 health code, 1978 PA 368, MCL 333.17766c and 333.17766f, involving
21 ephedrine or pseudoephedrine.

22 (iii) A violation of a law of another state, a local unit of
23 government of another state, or of the United States substantially
24 corresponding to a violation described in subparagraph (i) or (ii).

25 Sec. 3. (1) If an individual is convicted on or after January
26 1, 2014 of a methamphetamine-related offense in a court of this
27 state, the court shall inform the department of that conviction in

1 the manner prescribed by the department.

2 (2) An individual who is convicted on or after January 1, 2014
3 of a methamphetamine-related offense in a court of another state,
4 or of a local unit of government of another state, or in federal
5 court, who enters and remains in this state for a period of 14 days
6 or longer shall register with the department under this act before
7 the expiration of that 14-day period, if he or she has been
8 convicted of a methamphetamine-related offense within the
9 immediately preceding 10-year period. An individual described in
10 this subsection who fails to register with the department under
11 this act is guilty of a misdemeanor punishable by imprisonment for
12 not more than 93 days or a fine of not more than \$500.00, or both.

13 Sec. 4. (1) The department shall maintain a database of the
14 individuals described in section 3 for a period of 10 years after
15 the date of conviction. The database shall include the following
16 information for each individual:

17 (a) The individual's full name, address, and date of birth.

18 (b) If the individual has a driver license or state
19 identification card issued in this state or elsewhere, that driver
20 license number or state identification card number.

21 (c) A description of the offense for which the individual is
22 required to be registered.

23 (d) The state in which the offense occurred.

24 (e) The name and address of the court.

25 (f) The date of the offense.

26 (2) The department shall make the information described in
27 subsection (1) available to persons who lawfully sell, distribute,

1 deliver, or furnish products containing ephedrine or
2 pseudoephedrine to the public 24 hours per day, 7 days per week for
3 purposes of this act.

4 (3) Before selling, distributing, delivering, or furnishing a
5 product containing ephedrine or pseudoephedrine to any individual,
6 the person shall examine the information in the database maintained
7 by the department under this act to determine whether the
8 individual is listed in that database. If the individual is not
9 listed in that database, the person may sell, distribute, deliver,
10 or furnish that product to the individual without a prescription as
11 provided by law. However, if the person is listed in the database,
12 the person may sell, distribute, deliver, or furnish that product
13 to the individual only by prescription.

14 (4) Except as provided in subsection (5), a person who sells,
15 distributes, delivers, or furnishes a product containing ephedrine
16 or pseudoephedrine to any individual without examining the
17 information in the database maintained by the department under this
18 act is guilty of a misdemeanor punishable by imprisonment for not
19 more than 90 days or a fine of not more than \$500.00, or both.

20 (5) A person who sells, distributes, delivers, or furnishes a
21 product containing ephedrine or pseudoephedrine without a
22 prescription to any individual who is listed on the departmental
23 database under this act is guilty of a misdemeanor punishable by
24 imprisonment for not more than 1 year or a fine of not more than
25 \$1,000.00, or both.

26 (6) A person who refuses to sell, distribute, deliver, or
27 furnish a product containing ephedrine or pseudoephedrine without a

1 prescription to an individual who he or she has determined is
2 listed on the departmental database under this act is immune from
3 civil liability for that refusal.

4 (7) Any form, record, or information received by the
5 department under this act, and the registration information
6 maintained on the departmental database under this act, is
7 confidential and is not subject to disclosure under the freedom of
8 information act, 1976 PA 442, MCL 15.231 to 15.246, except as
9 provided in this act.

10 (8) A person who discloses information in violation of
11 subsection (7) is guilty of a misdemeanor punishable by
12 imprisonment for not more than 90 days or a fine of not more than
13 \$500.00, or both.

14 Sec. 5. (1) The department shall remove the information
15 contained in the departmental database for that individual if
16 either of the following applies:

17 (a) Upon the expiration of the 10-year period described in
18 section 4(1).

19 (b) If the individual contacts the department and shows to the
20 satisfaction of the department that the individual was not
21 convicted of the offense for which he or she is listed on the
22 departmental database.

23 (2) The department shall establish procedures to allow an
24 individual to correct information contained in the departmental
25 database under this act regarding that individual.