

HOUSE BILL NO. 4161

March 02, 2023, Introduced by Reps. Wilson, Byrnes, Rheingans, Neeley, Glanville, Mentzer, Hope and Aiyash and referred to the Committee on Criminal Justice.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 17764 (MCL 333.17764), as amended by 2004 PA
214.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 17764. (1) A person shall not sell, offer for sale,
2 possess for sale, or manufacture for sale a drug or device bearing
3 or accompanied by a label that is misleading as to the contents,
4 uses, or purposes of the drug or device. A person who violates this

1 subsection is guilty of a misdemeanor. In determining whether a
2 label is misleading, consideration ~~shall~~**must** be given to the
3 representations made or suggested by the statement, word, design,
4 device, sound, or any combination thereof, and the extent to which
5 the label fails to reveal facts material in view of the
6 representations made or material as to consequences that may result
7 from use of the drug or device to which the label relates under
8 conditions of use prescribed in the label or under customary or
9 usual conditions of use.

10 (2) A person shall not knowingly or recklessly do either of
11 the following:

12 (a) Adulterate, misbrand, remove, or substitute a drug or
13 device knowing or intending that the drug or device ~~shall~~ be used.

14 (b) Sell, offer for sale, possess for sale, cause to be sold,
15 or manufacture for sale an adulterated or misbranded drug.

16 (3) Except as otherwise provided in this section, a person who
17 violates subsection (2) is guilty of a felony punishable by
18 imprisonment for not more than 2 years or a fine of not more than
19 \$1,000.00, or both.

20 (4) ~~A~~**If a person who** violates subsection (2), ~~which violation~~
21 ~~results~~**resulting** in personal injury, **the person** is guilty of a
22 felony punishable by imprisonment for not more than 4 years or a
23 fine of not more than \$4,000.00, or both.

24 (5) ~~A~~**If a person who** violates subsection (2), ~~which violation~~
25 ~~results~~**resulting** in serious impairment of a body function, **the**
26 **person** is guilty of a felony punishable by imprisonment for not
27 more than 5 years or a fine of not more than \$5,000.00, or both. As
28 used in this subsection, "serious impairment of a body function"
29 means that term as defined in section 58c of the Michigan vehicle

1 code, 1949 PA 300, MCL 257.58c.

2 (6) ~~A~~**If a person who** violates subsection (2), ~~which violation~~
3 ~~results~~**resulting** in death, **the person** is guilty of a felony
4 punishable by imprisonment for not more than 15 years or a fine of
5 not more than \$20,000.00, or both.

6 (7) ~~A~~**Except as provided for a person who was less than 19**
7 **years of age at the time of the violation, if a person who** violates
8 subsection (2) with the intent to kill or to cause serious
9 impairment of a body function of 2 or more individuals, ~~which~~**and**
10 **the violation results in death, the person** is guilty of a felony
11 punishable by imprisonment for life without the possibility of
12 parole or life without the possibility of parole and a fine of not
13 more than \$40,000.00. **If the violation of subsection (2) was**
14 **committed by a person who was less than 19 years of age at the time**
15 **of the violation and with the intent to kill or to cause serious**
16 **impairment of a body function of 2 or more individuals and the**
17 **violation results in death, the person is guilty of a felony and**
18 **shall be punished by imprisonment with a minimum term of not less**
19 **than 10 years and maximum term of not more than 60 years and a fine**
20 **of not more than \$40,000.00.** It is not a defense to a charge under
21 this subsection that the person did not intend to kill a specific
22 individual, or did not intend to cause serious impairment of a body
23 function of 2 or more specific individuals.

24 (8) This section does not prohibit an individual from being
25 charged with, convicted of, or punished for any other violation of
26 law that is committed by that individual while violating this
27 section.

28 Enacting section 1. This amendatory act takes effect 90 days
29 after the date it is enacted into law.

1 Enacting section 2. This amendatory act does not take effect
2 unless all of the following bills of the 102nd Legislature are
3 enacted into law:

4 (a) Senate Bill No. _____ or House Bill No. 4163 (request no.
5 01612'23).

6 (b) Senate Bill No. _____ or House Bill No. 4164 (request no.
7 01612'23 a).

8 (c) Senate Bill No. _____ or House Bill No. 4162 (request no.
9 01612'23 b).

10 (d) Senate Bill No. _____ or House Bill No. 4160 (request no.
11 01612'23 c).