ADULTERATED PRODUCTS

Act 279 of 1988

AN ACT authorizing the governor to proclaim a state of emergency under certain circumstances; to prescribe the powers and duties of certain state and local agencies and officers in relation to the state of emergency; and to prescribe penalties.

History: 1988, Act 279, Imd. Eff. July 27, 1988

The People of the State of Michigan enact:

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10.121 Definitions.

Sec. 1.

As used in this act:

(a) "Adulterated" means adulterated as determined under the Michigan food law of 1968, Act No. 39 of the Public Acts of 1968, being sections 289.701 to 289.727 of the Michigan Compiled Laws.

(b) "Consumer product" means any food or beverage that is consumed by humans and any medicine including a prescription drug that is consumed or used by humans.

(c) "Retailer" means a place of business that offers consumer products for sale to the general public.

History: 1988, Act 279, Imd. Eff. July 27, 1988

10.122 Declaration of public health state of emergency; condition; order; request; enforcement.

Sec. 2.

(1) Subject to subsection (3), if the governor has a reasonable basis to believe that a consumer product has been adulterated and presents a threat to public safety and health, the governor may declare a public health state of emergency and order any of the following with regard to that consumer product:

(a) The removal of the consumer product from public display in all retail establishments.

(b) That the consumer product shall not be sold or offered for sale during the public health state of emergency.

(c) That any retailer possessing the consumer product shall segregate and hold the consumer product or a portion of the consumer product for disposition by designated law enforcement officials or officials of the department of agriculture or the department of public health.

(d) Any other limitations, controls, or prohibitions considered necessary by the governor regarding the manufacture, importation, sale, or transportation of the consumer product.

(2) Any order issued under subsection (1) may be amended or rescinded at any time by the governor.

(3) If the consumer product is under the authority of the department of agriculture pursuant to the Michigan food law of 1968, Act No. 39 of the Public Acts of 1968, being sections 289.701 to 289.727 of the Michigan Compiled Laws, or under the authority of the department of public health pursuant to the public health code, Act No. 368 of the Public Acts of 1978,

being sections 333.1101 to 333.25211 of the Michigan Compiled Laws, the governor shall not declare a public health state of emergency unless requested to do so by the department that regulates the consumer product. If the governor grants the request, the requesting department shall enforce the provisions of this act.

History: 1988, Act 279, Imd. Eff. July 27, 1988

10.123 Liability for removal or costs related to removal.

Sec. 3.

The state shall not be liable for removal or costs related to the removal of consumer products from public display under section 2(1)(a).

History: 1988, Act 279, Imd. Eff. July 27, 1988

10.124 Liability for damages or loss.

Sec. 4.

The state or an agent of the state acting pursuant to a public health state of emergency declared under this act shall not be liable for any damages or loss incurred because of any action taken pursuant to an order issued under section 2.

History: 1988, Act 279, Imd. Eff. July 27, 1988

10.125 Duration of public health state of emergency; renewal; amendment to order.

Sec. 5.

A public health state of emergency declared under this act shall exist for not more than 60 days and shall be renewable by the governor for an additional 30 days, at which time the public health state of emergency shall end, unless renewed by concurrent resolution passed by both houses of the legislature. An amendment to an order of public health state of emergency shall not be considered a new order.

History: 1988, Act 279, Imd. Eff. July 27, 1988

10.126 Dissemination of order or amended order; filing of order; notice to legislature.

Sec. 6.

(1) An order or amended order issued under this act shall be disseminated by the governor promptly by means calculated to bring its contents to the attention of the general public and shall be filed promptly with the secretary of state and the departments of state police, public health, and agriculture.

(2) The governor shall notify the legislature promptly of an order, amended order, or rescinded order issued under this act.

History: 1988, Act 279, Imd. Eff. July 27, 1988

10.127 Violation as misdemeanor; penalty; separate offenses; court action.

Sec. 7.

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(1) A person who knowingly violates this act or an order issued by the governor under this act is guilty of a misdemeanor punishable by a fine of not more than $500.00. Each day a violation continues is a separate offense.

(2) The attorney general, at the direction of the governor or upon receipt of a request from the department of agriculture or the department of public health, or a prosecuting attorney of a county may bring an action in a court of competent jurisdiction to prevent a violation of this act or an order issued pursuant to this act, or to compel a person to perform a duty imposed on the person under this act or an order issued under this act.

History: 1988, Act 279, Imd. Eff. July 27, 1988

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