

SUBSTITUTE FOR  
HOUSE BILL NO. 4769

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
(MCL 333.1101 to 333.25211) by adding section 5498.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1           SEC. 5498. (1) IF A MANUFACTURER OR DISTRIBUTOR FAILS TO  
2 COMPLY WITH A REQUIREMENT OF THIS PART, THE DEPARTMENT, ON AND  
3 AFTER THE EXPIRATION OF 90 DAYS AFTER THE DATE OF THE REQUIREMENT,  
4 MAY TAKE ENFORCEMENT ACTION, ASSESS CIVIL FINES UNDER SUBSECTION  
5 (2), AND REQUEST THE ATTORNEY GENERAL TO INITIATE IMMEDIATE  
6 INJUNCTION PROCEEDINGS TO PREVENT THE SALE OF CHILDREN'S PRODUCTS  
7 IN THIS STATE BY THAT MANUFACTURER OR DISTRIBUTOR.

8           (2) NOTWITHSTANDING SECTION 5493 AND SUBJECT TO SUBSECTION  
9 (3), A MANUFACTURER OR DISTRIBUTOR THAT VIOLATES THIS PART IS

1 SUBJECT TO THE FOLLOWING:

2 (A) IF THE VIOLATION IS THE MANUFACTURER'S OR DISTRIBUTOR'S  
3 FIRST OFFENSE UNDER THIS SECTION, A CIVIL FINE OF NOT MORE THAN  
4 \$5,000.00.

5 (B) IF THE VIOLATION IS THE MANUFACTURER'S OR DISTRIBUTOR'S  
6 SECOND OFFENSE UNDER THIS SECTION, A CIVIL FINE OF NOT MORE THAN  
7 \$25,000.00.

8 (C) IF THE VIOLATION IS THE MANUFACTURER'S OR DISTRIBUTOR'S  
9 THIRD OR SUBSEQUENT OFFENSE UNDER THIS SECTION, A CIVIL FINE OF NOT  
10 MORE THAN \$50,000.00.

11 (D) IF A MANUFACTURER OR DISTRIBUTOR KNOWINGLY VIOLATES THIS  
12 SECTION, A CIVIL FINE EQUAL TO 3 TIMES THE AMOUNT IN SUBDIVISION  
13 (C).

14 (3) THE DEPARTMENT SHALL WAIVE A CIVIL FINE IMPOSED UNDER THIS  
15 SECTION IF IT IS DETERMINED THAT THE MANUFACTURER OR DISTRIBUTOR  
16 ACTED IN GOOD FAITH TO BE IN COMPLIANCE WITH THIS PART, PURSUED  
17 COMPLIANCE WITH DUE DILIGENCE, AND PROMPTLY CORRECTED ANY  
18 NONCOMPLIANCE AFTER DISCOVERY OF THE VIOLATION.

19 (4) THE CHILDREN'S SAFE PRODUCTS FUND IS CREATED WITHIN THE  
20 STATE TREASURY. THE DEPARTMENT SHALL TRANSMIT ALL CIVIL FINES  
21 COLLECTED UNDER THIS PART TO THE STATE TREASURER FOR DEPOSIT INTO  
22 THE FUND. THE STATE TREASURER SHALL DEPOSIT INTO THE FUND ALL CIVIL  
23 FINES RECEIVED PURSUANT TO THIS SUBSECTION AND MAY RECEIVE MONEY OR  
24 OTHER ASSETS FROM ANY SOURCE FOR DEPOSIT INTO THE FUND. THE STATE  
25 TREASURER SHALL DIRECT THE INVESTMENT OF THE FUND AND SHALL CREDIT  
26 TO THE FUND INTEREST EARNINGS FROM FUND INVESTMENTS. MONEY IN THE  
27 FUND AT THE CLOSE OF THE FISCAL YEAR SHALL REMAIN IN THE FUND AND

1 SHALL NOT LAPSE TO THE GENERAL FUND. THE DEPARTMENT SHALL EXPEND  
2 MONEY FROM THE FUND, UPON APPROPRIATION, FOR THE PURPOSE OF  
3 ADMINISTERING AND CARRYING OUT THOSE DUTIES REQUIRED BY THIS PART.  
4 THE DEPARTMENT SHALL BE THE ADMINISTRATOR OF THE FUND FOR AUDITING  
5 PURPOSES.

6 Enacting section 1. This amendatory act does not take effect  
7 unless all of the following bills of the 95th Legislature are  
8 enacted into law:

- 9 (a) House Bill No. 4763.  
10 (b) House Bill No. 4764.  
11 (c) House Bill No. 4765.  
12 (d) House Bill No. 4766.  
13 (e) House Bill No. 4767.  
14 (f) House Bill No. 4768.