



Rep. Susana A. Mendoza

Filed: 4/11/2011

09700HB2193ham001

LRB097 09104 RLC 54240 a

1 AMENDMENT TO HOUSE BILL 2193

2 AMENDMENT NO. _____. Amend House Bill 2193 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Code of 1961 is amended by adding
5 Sections 12-37 and 12-38 as follows:

6 (720 ILCS 5/12-37 new)

7 Sec. 12-37. Possession and sale of caustic and noxious
8 substances.

9 (a) Except as provided in subsection (b), it is unlawful
10 for any person knowingly to have in his or her possession or to
11 carry about any of the substances which are regulated by Title
12 16 CFR Section 1500.129 of the Federal Caustic Poison Act and
13 are required to contain the words "causes severe burns" as the
14 affirmative statement of principal hazard on its label.

15 (b) The restrictions of subsection (a) do not apply to:

16 (1) persons while engaged in the legitimate commercial

1 manufacture, distribution, storage, or use of the
2 specified substances;

3 (2) persons while engaged in legitimate scientific or
4 medical research, study, teaching or treatment involving
5 the use of such substances, including without limitation
6 physicians, pharmacists, scientists, teachers, students,
7 and employees of regularly established laboratories,
8 manufacturing and wholesale pharmacies, retail pharmacies,
9 medical treatment facilities, schools, colleges, and
10 universities;

11 (3) persons who have procured any of the specified
12 substances for medicinal purposes upon a prescription of a
13 physician licensed to practice medicine in all its branches
14 under the Medical Practice Act of 1987;

15 (4) commercial or consumer products that contain any of
16 the specified substances found in subsection (a)
17 including, but not limited to, batteries;

18 (5) production agriculture as defined in Section 3-5 of
19 the Use Tax Act; or

20 (6) persons while engaged in the sale, possession,
21 transportation, or use for its intended commercial purpose
22 of a commercial product containing any of the substances
23 specified in subsection (a), provided that the product is
24 not used to threaten, intimidate, injure, or cause distress
25 to another.

26 (c) Sentence. A violation of this Section is a Class 4

1 felony.

2 (d) The regulation of the possession and carrying of
3 caustic and noxious substances under this Section is an
4 exclusive power and function of the State. A home rule unit may
5 not regulate the possession and carrying of caustic and noxious
6 substances and any ordinance or local law contrary to this
7 Section is declared void. This is a denial and limitation of
8 home rule powers and functions under subsection (h) of Section
9 6 of Article VII of the Illinois Constitution.

10 (720 ILCS 5/12-38 new)

11 Sec. 12-38. Restrictions on purchase or acquisition of
12 corrosive or caustic acid.

13 (a) A person seeking to purchase a substance which is
14 regulated by Title 16 CFR Section 1500.129 of the Federal
15 Caustic Poison Act and is required to contain the words "causes
16 severe burns" as the affirmative statement of principal hazard
17 on its label, must prior to taking possession:

18 (1) provide a valid driver's license or other
19 government-issued identification showing the person's
20 name, date of birth, and photograph; and

21 (2) sign a log documenting the name and address of the
22 person, date and time of the transaction, and the brand,
23 product name and net weight of the item.

24 (b) Exemption. The requirements of subsection (a) do not
25 apply to batteries.

1 (c) Rules and Regulations. The Illinois Department of State
2 Police shall have the authority to promulgate rules for the
3 implementation and enforcement of this Section.

4 (d) Sentence. Any violation of this Section is a business
5 offense for which a fine not exceeding \$1,500 may be imposed.

6 (e) Preemption. The regulation of the purchase or
7 acquisition, or both, of a caustic or corrosive substance and
8 any registry regarding the sale or possession, or both, of a
9 caustic or corrosive substance is an exclusive power and
10 function of the State. A home rule unit may not regulate the
11 purchase or acquisition of caustic or corrosive substances and
12 any ordinance or local law contrary to this Section is declared
13 void. This is a denial and limitation of home rule powers and
14 functions under subsection (h) of Section 6 of Article VII of
15 the Illinois Constitution."