

**PUBLIC HEALTH CODE (EXCERPT)**  
**Act 368 of 1978**  
Part 57  
**EXPOSURE TO CHEMICAL HERBICIDES**

**333.5701 Definitions.**

Sec. 5701.

- (1) As used in this part:
- (a) "Agent orange" means the chemical herbicide made from chemicals known as 2,4-Dichlorophenoxyacetic acid and its esters, or 2,4-D, and Trichlorophenoxyacetic acid and its esters, or 2,4,5-T.
  - (b) "Chemical agent" means a chemical herbicide or defoliant other than agent orange, or a chemical weapon, which chemical herbicide, defoliant, or weapon is of the type used by the armed forces of the United States.
  - (c) "Commission" means the agent orange commission created in section 5731.
  - (d) "Department" means the department of health and human services in cooperation with the veterans' service offices.
  - (e) "Dioxin" means the chemicals known as 2,3,7,8-Tetrachlorodibenzo-p-dioxin, or 2,3,7,8-TCDD.
  - (f) "Hospital" means a hospital licensed pursuant to article 17.
  - (g) "Information resource center" means the agent orange information resource center created in section 5745.
  - (h) "Physician" means a physician licensed pursuant to article 15.
  - (i) "Veteran" means that term as defined in section 1 of 1965 PA 190, MCL 35.61.
  - (j) "Vietnam-era veteran" means a veteran who served in the armed forces of the United States between 12:01 a.m., January 1, 1961, and 12:01 a.m., September 1, 1973, and who meets either of the following criteria:
    - (i) Has been a resident of this state continuously since June 11, 1987.
    - (ii) Is a resident of this state at the time he or she begins participating in testing or other activities under this part, and was a resident of this state at the time of induction into the armed forces of the United States.
- (2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code.

**History:** Add. 1987, Act 48, Imd. Eff. June 11, 1987 ;-- Am. 2016, Act 206, Eff. Sept. 20, 2016

**Popular Name:** Act 368

**333.5703 Toxicological studies; consent; report; information on physical health.**

Sec. 5703.

- (1) The department, in consultation and cooperation with the commission, shall conduct toxicological studies on a selected sample of Vietnam-era veterans to establish their exposure to agent orange or a chemical agent. In conducting the studies, the department shall analyze appropriate specimens for dioxin in combination with a review of Vietnam-era veterans' military service locations. The department shall obtain prior written consent from each Vietnam-era veteran to be studied under this section. The department shall compile and evaluate information obtained from these studies into a report, and shall submit the report to the commission for review and publication.
- (2) The department shall gather information on the physical health of study participants and their families to the extent the department considers necessary.

**History:** Add. 1987, Act 48, Imd. Eff. June 11, 1987

**Popular Name:** Act 368

**333.5709 Studying causes of death.**

Sec. 5709.

The department, in consultation and cooperation with the commission, shall study the causes of death among Vietnam-era veterans, utilizing the department's vital statistics records and the agent orange registry data base maintained by the information resource center under section 5745. The information obtained under this section shall serve as a foundation for additional epidemiological studies on the relative incidence of disease among Vietnam-era veterans.

**History:** Add. 1987, Act 48, Imd. Eff. June 11, 1987

**Popular Name:** Act 368

### **333.5711 Epidemiological studies; consent.**

Sec. 5711.

The department, in consultation and cooperation with the commission, shall conduct epidemiological studies on a selected sample of Vietnam-era veterans who have a history of cancer or other medical problems associated with exposure to agent orange or a chemical agent, or who have children born with birth defects after the Vietnam-era veteran's suspected exposure to agent orange or a chemical agent. Levels of dioxin in the blood serum of Vietnam-era veterans shall be established by analysis of appropriate specimens for dioxin. The department shall obtain prior written consent from each Vietnam-era veteran to be studied under this section.

**History:** Add. 1987, Act 48, Imd. Eff. June 11, 1987

**Popular Name:** Act 368

### **333.5713 Annual report; recommendations.**

Sec. 5713.

The department shall compile and analyze the information obtained under sections 5709 and 5711, and shall produce an annual report which shall be distributed through the information resource center to veterans' organizations, the federal centers for disease control, the chairpersons of the committees of the senate and house of representatives responsible for legislation concerning veterans, and other appropriate governmental offices. The department shall make any recommendations for additional actions to the commission.

**History:** Add. 1987, Act 48, Imd. Eff. June 11, 1987

**Popular Name:** Act 368

### **333.5715 Report or other information as public information; availability; confidentiality of medical information.**

Sec. 5715.

(1) A departmental report under section 5703 or 5713, or other compilation of information collected under this part, unless it discloses the identity of an individual who does not consent to the disclosure, is public information, and shall be made available in accordance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(2) Medical information about an individual that is gathered under this part is confidential and shall be subject to the same requirements of confidentiality as provided in section 2631 for data or records concerning medical research projects.

**History:** Add. 1987, Act 48, Imd. Eff. June 11, 1987

**Popular Name:** Act 368

**333.5717 Birth defects registry; establishment; purposes.**

Sec. 5717.

The department shall establish a birth defects registry for all of the following purposes:

(a) To provide information on the incidence and trends of birth defects among Vietnam-era veterans and their families, and among the general population.

(b) To provide information to determine whether environmental hazards such as exposure to agent orange or chemical agents are associated with birth defects and to provide information as to other possible causes of birth defects among Vietnam-era veterans and among the general population.

(c) To develop prevention strategies for reducing the incidence of birth defects among Vietnam-era veterans and their families, and among the general population.

**History:** Add. 1987, Act 48, Imd. Eff. June 11, 1987

**Popular Name:** Act 368

**333.5721 Birth defects; reports; records; confidentiality; rules; submission to medical examination or supervision not required; contract for collection and analysis of data; evaluation of information reported to birth defects registry; public reports.**

Sec. 5721.

(1) Each diagnosed incidence of a birth defect, including a congenital or structural malformation, or a biochemical or genetic disease, and any information relevant to incidents of birth defects, shall be reported to the department. The reporting shall begin not later than the next calendar year after June 11, 1987.

(2) The department shall maintain comprehensive statewide records of all information reported to the birth defects registry. The information reported shall be subject to the same requirements of confidentiality as provided in section 2631 for data or records concerning medical research projects.

(3) The director shall promulgate rules which provide for all of the following:

(a) A list of birth defects, including, but not limited to, congenital and structural malformations, and biochemical or genetic diseases, and other relevant information to be reported.

(b) The quality and manner in which the incidents of birth defects and other information is to be reported.

(c) The terms and conditions under which records maintained under this section, including any records containing the name and medical condition of a specific individual, may be released by the department.

(4) This section does not compel an individual to submit to medical examination or supervision by the department or otherwise.

(5) The department may contract for the collection and analysis of, and research related to, the data required under this section.

(6) Within 2 years after June 11, 1987, the department shall begin evaluating the information reported to the birth defects registry. The department shall publish and make available to the public reports summarizing the information collected. The first summary report shall be published not later than 180 days after the end of the first 2 full calendar years after June 11, 1987. Subsequent annual summary reports shall be made on a full calendar year basis and published not later than 180 days after the end of each calendar year.

**History:** Add. 1987, Act 48, Imd. Eff. June 11, 1987 ;-- Am. 1988, Act 236, Eff. Oct. 1, 1988

**Popular Name:** Act 368

**333.5723 Referral services.**

Sec. 5723.

The department, in collaboration with veterans' counseling sources, shall provide referral services for those Vietnam-era veterans and their dependents who desire counseling or referral.

**History:** Add. 1987, Act 48, Imd. Eff. June 11, 1987

**Popular Name:** Act 368

### **333.5725 Class action; purpose.**

Sec. 5725.

The attorney general, on behalf of Vietnam-era veterans residing in this state who may have been injured because of contact with agent orange or a chemical agent while serving in the armed forces of the United States, may bring a class action against the federal government or any other party for the release of information relating to exposure to agent orange or a chemical agent and for release of individual Vietnam-era veterans' medical records.

**History:** Add. 1987, Act 48, Imd. Eff. June 11, 1987

**Popular Name:** Act 368

### **333.5731 Agent orange commission; creation; appointment, qualifications, and terms of members; vacancy.**

Sec. 5731.

- (1) The agent orange commission is created in the department.
- (2) The commission is composed of 14 members, including all of the following:
  - (a) One member is the director, or his or her designee.
  - (b) One member is the attorney general, or his or her designee.
  - (c) The remaining members shall be appointed by the governor, with the advice and consent of the senate, as follows:
    - (i) One member shall be a representative of the Michigan veterans trust fund.
    - (ii) Four members shall be researchers who are experts in the fields of cytogenetic evaluations, birth defects, immunological studies, neurological studies, toxicology, oncology, or other fields relevant to the purposes of this part whose knowledge may contribute to the implementation of this part.
    - (iii) Five members shall be Vietnam-era veterans, at least 1 of whom shall be a female Vietnam-era veteran.
    - (iv) Two members shall represent the general public, 1 of whom shall be appointed from a list of nominees provided by the speaker of the house of representatives, and 1 of whom shall be appointed from a list of nominees provided by the majority leader of the senate.
- (3) Members shall each serve for terms of 2 years, and those members who are appointed may be reappointed once. A vacancy shall be filled in the same manner as the original appointment for the duration of the unexpired term.

**History:** Add. 1987, Act 49, Imd. Eff. June 11, 1987

**Compiler's Notes:** For transfer of certain powers and duties of the agent orange commission from the department of public health to the director of the department of community health, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws. For transfer of powers and duties of the agent orange commission to the director of the department of community health and the abolishment of the commission, see E.R.O. No. 1997-4, compiled at MCL 333.26324 of the Michigan Compiled Laws.

**Popular Name:** Act 368

### **333.5735 Agent orange commission; duties.**

Sec. 5735.

The commission shall do all of the following:

- (a) Review the toxicological and epidemiological literature on herbicide compounds, and their by-product contaminants, of the type utilized by the armed forces during the period prescribed in section 5701(1)(j).
- (b) Review and publicize the department's public information program directed at Vietnam-era veterans who have been exposed to agent orange, a chemical agent, or other herbicide mixtures containing dioxin.
- (c) Review the department's programmatic and research activities and provide recommendations to the department, the chairpersons of the committees of the Senate and House of Representatives responsible for legislation concerning veterans, and other appropriate governmental offices, as to the department's ongoing investigations of the adverse effects on human health of agent orange, chemical agents, and other herbicide mixtures containing dioxin.
- (d) Advise and assist the department in the implementation of this part.

**History:** Add. 1987, Act 49, Imd. Eff. June 11, 1987

**Compiler's Notes:** For transfer of certain powers and duties of the agent orange commission from the department of public health to the director of the department of community health, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws. For transfer of powers and duties of the agent orange commission to the director of the department of community health and the abolishment of the commission, see E.R.O. No. 1997-4, compiled at MCL 333.26324 of the Michigan Compiled Laws.

**Popular Name:** Act 368

### **333.5737 Agent orange commission; election of chairperson; meetings; travel expenses; conducting business at public meeting; notice; writings available to public.**

Sec. 5737.

(1) The members annually shall elect a chairperson. The commission shall meet at least 4 times each year at the call of the chairperson. The first meeting of the commission shall be held not later than 3 months after the effective date of this part.

(2) Commission members shall serve without compensation, but shall be reimbursed for their necessary travel expenses for attendance at commission meetings.

(3) The business that the commission performs shall be conducted at a public meeting of the commission held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(4) A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

**History:** Add. 1987, Act 49, Imd. Eff. June 11, 1987

**Compiler's Notes:** For transfer of certain powers and duties of the agent orange commission from the department of public health to the director of the department of community health, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws. For transfer of powers and duties of the agent orange commission to the director of the department of community health and the abolishment of the commission, see E.R.O. No. 1997-4, compiled MCL 333.26324 of the Michigan Compiled Laws.

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### **333.5745 Agent orange information resource center; creation; membership; duties.**

Sec. 5745.

(1) There is created an agent orange information resource center within the department.

(2) The information resource center shall have members with expertise in human medicine, toxicology, epidemiology and data management and analysis.

(3) The information resource center, with appropriate extramural consultation, shall develop the survey questionnaires, data base management system, and the medical analysis system for the registry required under

subsection (5).

(4) The information resource center annually shall request local veterans' organizations and health agencies to evaluate the operation of the information resource center program from their perspective.

(5) The information resource center shall perform searches of technical documents and published scientific literature. A registry of all known ongoing agent orange related research shall be maintained. These information resources shall be utilized in the annual analysis of data on Vietnam-era veterans and in providing the annual reports required under section 5713.

(6) The information resource center shall solicit state and local media organizations to inform Vietnam-era veterans of their rights under this part, and to encourage Vietnam-era veterans to submit health information, and other relevant information, to the department, commission, and information resource center as required under this part.

(7) The information resource center shall provide local health and veteran's facilities with a comprehensive and annually updated list of tertiary medical care facilities as defined in section 22108, specializing in areas appropriate for the clinical laboratory evaluation of veterans to determine if a Vietnam-era veteran has suffered physical damage as a result of substantial exposure to agent orange or a chemical agent.

(8) The department, through the information resource center or otherwise, shall refer Vietnam-era veterans to appropriate state and federal agencies for the purpose of filing claims to seek remedies for medical and financial problems caused by the Vietnam-era veterans' exposure to agent orange or chemical agents.

**History:** Add. 1987, Act 49, Imd. Eff. June 11, 1987

**Compiler's Notes:** For transfer of certain powers and duties of the agent orange commission from the department of public health to the director of the department of community health, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

**Popular Name:** Act 368

### **333.5747 Rules.**

Sec. 5747.

The department shall promulgate rules to implement this part.

**History:** Add. 1987, Act 49, Imd. Eff. June 11, 1987

**Popular Name:** Act 368

### **333.5749 Phasing in studies and birth defects registry.**

Sec. 5749.

The studies and the birth defects registry called for under this part shall be phased in according to an orderly schedule established by the department, with the advice of the commission.

**History:** Add. 1987, Act 49, Imd. Eff. June 11, 1987

**Popular Name:** Act 368