

[When Will Michigan State Senate Vote Whether To Repeal Statute Prohibiting Drug Injury Lawsuits](#)

State Senate Republicans Move In January 2010 To Delay, Again, Any Action Regarding This "FDA Defense" Law

(Posted by Tom Lamb at www.DrugInjuryWatch.com on January 18, 2010; see <http://bit.ly/5WslpP>)

As you may be aware, Michigan is the only state in the country that has a statute, or law, which serves to shield pharmaceutical companies from drug injury lawsuits.

Enacted into law back in 1995, this statute -- commonly called the "FDA defense" -- states that pharmaceutical manufacturers cannot be sued if their medical products are approved by the FDA, unless the company intentionally withheld information or misled the FDA or misrepresented the product in advertising -- which is very difficult to establish.

In more detail, the Michigan statute, MCLS § 600.2946(5), provides that an FDA-approved pharmaceutical product is not defective nor unreasonably dangerous where the product and its labeling were in compliance with FDA requirements at the time when the product was sold.

In March 2009 the Michigan House of Representatives passed two bills (H.B. 4316 and 4317) that would repeal the statute which essentially gives legal immunity to pharmaceutical manufacturers from products liability legal compensation lawsuits brought by Michigan residents. If passed by the Michigan state Senate, these two bills would: (1) repeal the statutory immunity provided by MCLS § 600.2946(5); and, (2) make the repeal retroactive so that Michigan residents who were previously prohibited from filing such any drug injury lawsuit could now do so within three years of the date the repeal law goes into effect, *i.e.*, effective date of the statute.

Now, ten months later, it is still unknown when, if ever, the Michigan Senate will vote on these two March 2009 Michigan House bills that eliminate the "FDA defense" in Michigan.

The most recent word on this continually contentious issue comes from a January 15, 2010 article, "[Lawmakers push to end drug firms' immunity -- Whitmer, Meadows criticize GOP effort to delay measure](#)", published by the *Lansing State Journal*. In that article, reporter Scott Davis sets forth the developments from last week:

Thursday, state Sen. Gretchen Whitmer and Rep. Mark Meadows, both East Lansing Democrats, blasted Senate Republicans for moving this week to delay action this year on a House bill to lift the product liability shield....

On Wednesday, Republicans who control the Senate agreed to a parliamentary move to keep the bill in the Government Operations and Reform Committee and not bring it up for a vote this year. Similar tactics in recent years have stalled a vote on other versions of the bill.

Adam Knott, a spokesman for Drug Immunity Must End, a group that formed to battle the drug shield law, said the group merely wants an up or down vote in the Senate. He hopes voters will pressure Republicans to bring it to the floor for action.

We will continue to monitor the status of this "FDA defense" law in Michigan, and we welcome all points of view on this issue (**Note:** While Comments are moderated, all are published but for those which go beyond G-rated content.)

Attorney [Tom Lamb](#) represents people in personal injury and wrongful death cases involving unsafe prescription drugs or medication errors. The above article was posted originally on his blog, **Drug Injury Watch** -- with live links and readers' Comments.
<http://www.DrugInjuryWatch.com>