



HOUSE BILL No. 4918

May 31, 1995, Introduced by Reps. Nye and Gilmer and referred to the Committee on Judiciary and Civil Rights.

A bill to amend sections 7401 and 7403 of Act No. 368 of the Public Acts of 1978, entitled as amended

"Public health code,"

as amended by Act No. 221 of the Public Acts of 1994, being sections 333.7401 and 333.7403 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 7401 and 7403 of Act No. 368 of the
2 Public Acts of 1978, as amended by Act No. 221 of the Public Acts
3 of 1994, being sections 333.7401 and 333.7403 of the Michigan
4 Compiled Laws, are amended to read as follows:

5 Sec. 7401. (1) Except as authorized by this article, a
6 person shall not manufacture, create, deliver, or possess with
7 intent to manufacture, create, or deliver a controlled substance,
8 a prescription form, an official prescription form, or a
9 counterfeit prescription form. A practitioner licensed by the

1 administrator under this article shall not dispense, prescribe,
2 or administer a controlled substance for other than legitimate
3 and professionally recognized therapeutic or scientific purposes
4 or outside the scope of practice of the practitioner, licensee,
5 or applicant.

6 (2) A person who violates this section as to:

7 (a) A controlled substance classified in schedule 1 or 2
8 that is a narcotic drug or a drug described in section
9 7214(a)(iv) and:

10 (i) Which is in an amount of 650 grams or more of any mix-
11 ture containing that substance is guilty of a felony and shall be
12 imprisoned for life.

13 (ii) Which is in an amount of 225 grams or more, but less
14 than 650 grams, of any mixture containing that substance is
15 guilty of a felony and shall be imprisoned for not less than 20
16 years nor more than 30 years.

17 (iii) Which is in an amount of 50 grams or more, but less
18 than 225 grams, of any mixture containing that substance is
19 guilty of a felony and shall be imprisoned for not less than 10
20 years nor more than 20 years.

21 (iv) Which is in an amount less than 50 grams, of any mix-
22 ture containing that substance is guilty of a felony and shall be
23 imprisoned for not ~~less than 1 year nor~~ more than 20 years, and
24 may be fined not more than \$25,000.00, or placed on probation for
25 life.

26 (b) Any other controlled substance classified in schedule 1,
27 2, or 3, except marihuana, is guilty of a felony, punishable by

1 imprisonment for not more than 7 years, or a fine of not more
2 than \$10,000.00, or both.

3 (c) A substance classified in schedule 4, is guilty of a
4 felony, punishable by imprisonment for not more than 4 years, or
5 a fine of not more than \$2,000.00, or both.

6 (d) Marihuana or a mixture containing marihuana, is guilty
7 of a felony, punishable as follows:

8 (i) If the amount is 45 kilograms or more, or 200 plants or
9 more, by imprisonment for not more than 15 years or a fine of not
10 more than \$10,000,000.00, or both.

11 (ii) If the amount is 5 kilograms or more but less than 45
12 kilograms, or 20 plants or more but fewer than 200 plants, by
13 imprisonment for not more than 7 years or a fine of not more than
14 \$500,000.00, or both.

15 (iii) If the amount is less than 5 kilograms or fewer than
16 20 plants, by imprisonment for not more than 4 years or a fine of
17 not more than \$20,000.00, or both.

18 (e) A substance classified in schedule 5, is guilty of a
19 felony, punishable by imprisonment for not more than 2 years, or
20 a fine of not more than \$2,000.00, or both.

21 (f) An official prescription form or a counterfeit official
22 prescription form, is guilty of a felony, punishable by imprison-
23 ment for not more than 20 years, or a fine of not more than
24 \$25,000.00, or both.

25 (g) A prescription form or a counterfeit prescription form
26 other than an official prescription form or a counterfeit
27 official prescription form, is guilty of a felony, punishable by

1 imprisonment for not more than 7 years, or a fine of not more
2 than \$5,000.00, or both.

3 (3) A term of imprisonment imposed pursuant to subsection
4 (2)(a) or section 7403(2)(a)(i), (ii), (iii), or (iv) shall be
5 imposed to run consecutively with any term of imprisonment
6 imposed for the commission of another felony. An individual
7 subject to a mandatory term of imprisonment under subsection
8 (2)(a) or section 7403(2)(a)(i), (ii), OR (iii) ~~, or (iv)~~ shall
9 not be eligible for probation, suspension of that sentence, or
10 parole during that mandatory term, except and only to the extent
11 that those provisions permit probation for life, and shall not
12 receive a reduction in that mandatory term of imprisonment by
13 disciplinary credits or any other type of sentence credit
14 reduction.

15 (4) The court may depart from the minimum term of imprison-
16 ment authorized under subsection (2)(a)(ii) ~~—~~ OR (iii) ~~— or~~
17 ~~(iv)~~ if the court finds on the record that there are substantial
18 and compelling reasons to do so.

19 (5) As used in this section, "plant" means a marihuana plant
20 that has produced cotyledons or a cutting of a marihuana plant
21 that has produced cotyledons.

22 Sec. 7403. (1) A person shall not knowingly or intention-
23 ally possess a controlled substance, a controlled substance anal-
24 ogue, or an official prescription form or a prescription form
25 unless the controlled substance, controlled substance analogue,
26 official prescription form, or prescription form was obtained
27 directly from, or pursuant to, a valid prescription or order of a

1 practitioner while acting in the course of the practitioner's
2 professional practice, or except as otherwise authorized by this
3 article.

4 (2) A person who violates this section as to:

5 (a) A controlled substance classified in schedule 1 or 2
6 that is a narcotic drug or a drug described in section
7 7214(a)(iv), and:

8 (i) Which is in an amount of 650 grams or more of any mix-
9 ture containing that substance is guilty of a felony and shall be
10 imprisoned for life.

11 (ii) Which is in an amount of 225 grams or more, but less
12 than 650 grams, of any mixture containing that substance is
13 guilty of a felony and shall be imprisoned for not less than 20
14 years nor more than 30 years.

15 (iii) Which is in an amount of 50 grams or more, but less
16 than 225 grams, of any mixture containing that substance is
17 guilty of a felony and shall be imprisoned for not less than 10
18 years nor more than 20 years.

19 (iv) Which is in an amount of 25 grams or more, but less
20 than 50 grams of any mixture containing that substance is guilty
21 of a felony, and shall be imprisoned for not ~~less than 1 year~~
22 ~~and not~~ more than 4 years, and may be fined not more than
23 \$25,000.00 or placed on probation for life.

24 (v) Which is in an amount less than 25 grams of any mixture
25 containing that substance is guilty of a felony, punishable by
26 imprisonment for not more than 4 years or a fine of not more than
27 \$25,000.00, or both.

1 (b) A controlled substance classified in schedule 1, 2, 3,
2 or 4, except a controlled substance for which a penalty is pre-
3 scribed in subdivision (a), (c), or (d), or a controlled sub-
4 stance analogue is guilty of a felony, punishable by imprisonment
5 for not more than 2 years, or a fine of not more than \$2,000.00,
6 or both.

7 (c) Lysergic acid diethylamide, peyote, mescaline, dimethyl-
8 tryptamine, psilocyn, psilocybin, or a controlled substance clas-
9 sified in schedule 5, is guilty of a misdemeanor, punishable by
10 imprisonment for not more than 1 year, or a fine of not more than
11 \$2,000.00, or both.

12 (d) Marihuana, is guilty of a misdemeanor, punishable by
13 imprisonment for not more than 1 year, or a fine of not more than
14 \$2,000.00, or both.

15 (e) An official prescription form, is guilty of a felony,
16 punishable by imprisonment for not more than 1 year, or a fine of
17 not more than \$2,000.00, or both.

18 (f) A prescription form other than an official prescription
19 form, is guilty of a misdemeanor, punishable by imprisonment for
20 not more than 1 year, or a fine of not more than \$1,000.00, or
21 both.

22 (3) The court may depart from the minimum term of imprison-
23 ment authorized under subsection (2)(a)(ii) ~~or~~ OR (iii) ~~or~~
24 ~~(iv)~~ if the court finds on the record that there are substantial
25 and compelling reasons to do so.

1 Section 2. This amendatory act shall not take effect unless
2 Senate Bill No. _____ or House Bill No. _____ (request
3 no. 01735'95) of the 88th Legislature is enacted into law.