

HOUSE BILL No. 5036

July 9, 1997, Introduced by Reps. DeVuyst, Jelinek, Voorhees, Kaza, Gernaat, Goschka, McBryde, Kukuk, Mans, Richner and Llewellyn and referred to the Committee on Judiciary.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 7410 (MCL 333.7410), as amended by 1994 PA
174.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7410. (1) Except as otherwise provided in
2 subsections (2) and (3), an individual ~~18~~ 17 years of age or
3 over who violates section 7401(2)(a)(iv) by delivering or dis-
4 tributing a controlled substance listed in schedule 1 or 2 that
5 is either a narcotic drug or described in section 7214(a)(iv) to
6 an individual under 18 years of age who is at least 3 years the
7 deliverer's or distributor's junior may be punished by the fine
8 authorized by section 7401(2)(a)(iv) or by a term of imprisonment
9 of not less than 1 year nor more than twice that authorized by
10 section 7401(2)(a)(iv), or both. An individual ~~18~~ 17 years of

1 age or over who violates section 7401 by delivering or
2 distributing any other controlled substance listed in schedules 1
3 to 5 to an individual under 18 years of age who is at least 3
4 years the distributor's junior may be punished by the fine autho-
5 rized by section 7401(2)(b), (c), or (d), or by a term of impris-
6 onment not more than twice that authorized by section 7401(2)(b),
7 (c), or (d), or both.

8 (2) An individual ~~18~~ 17 years of age or over who violates
9 section 7401(2)(a)(iv) by delivering a controlled substance
10 described in schedule 1 or 2 that is either a narcotic drug or
11 described in section 7214(a)(iv) to a minor who is a student on
12 or within 1,000 feet of school property shall be punished,
13 subject to subsection (5), by a term of imprisonment of not less
14 than 2 years or more than 3 times that authorized by section
15 7401(2)(a)(iv) and, in addition, may be punished by a fine of not
16 more than 3 times that authorized by section 7401(2)(a)(iv).

17 (3) An individual ~~18~~ 17 years of age or over who violates
18 section 7401(2)(a)(iv) by possessing with intent to deliver to a
19 minor who is a student on or within 1,000 feet of school property
20 a controlled substance described in schedule 1 or 2 that is
21 either a narcotic drug or described in section 7214(a)(iv) shall
22 be punished, subject to subsection (5), by a term of imprisonment
23 of not less than 2 years or more than twice that authorized by
24 section 7401(2)(a)(iv) and, in addition, may be punished by a
25 fine of not more than 3 times that authorized by section
26 7401(2)(a)(iv).

1 (4) An individual ~~18~~ 17 years of age or over who violates
2 section 7403(2)(a)(v), (b), (c), or (d) by possessing a
3 controlled substance on school property shall be punished by a
4 term of imprisonment or a fine, or both, of not more than twice
5 that authorized by section 7403(2)(a)(v), (b), (c), or (d).

6 (5) The court may depart from the minimum term of imprison-
7 ment authorized under subsection (2) or (3) if the court finds on
8 the record that there are substantial and compelling reasons to
9 do so.

10 (6) As used in this section, "school property" means a
11 building, playing field, or property used for school purposes to
12 impart instruction to children in grades kindergarten through 12,
13 when provided by a public, private, denominational, or parochial
14 school, except those buildings used primarily for adult education
15 or college extension courses.

16 (7) A person who distributes marihuana without remuneration
17 and not to further commercial distribution and who does not vio-
18 late subsection (1) is guilty of a misdemeanor ~~—~~ punishable by
19 imprisonment for not more than 1 year ~~—~~ or a fine of not more
20 than \$1,000.00, or both, unless the distribution is in accordance
21 with the federal law or the law of this state.