

SENATE BILL No. 1248

May 9, 2000, Introduced by Senators BYRUM, DE BEAUSSAERT, MILLER, A. SMITH, EMERSON, CHERRY, V. SMITH, HART, DINGELL, PETERS, YOUNG, MURPHY, KOIVISTO, VAUGHN, HAMMERSTROM and LELAND and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 7212 and 7401 (MCL 333.7212 and 333.7401), section 7212 as amended by 1998 PA 248 and section 7401 as amended by 1998 PA 319.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7212. (1) The following controlled substances are
2 included in schedule 1:

3 (a) Any of the following opiates, including their isomers,
4 esters, the ethers, salts, and salts of isomers, esters, and
5 ethers, unless specifically excepted, when the existence of these
6 isomers, esters, ethers, and salts is possible within the spe-
7 cific chemical designation:

8	Acetylmethadol	Difenoxin	Noracymethadol
9	Allylprodine	Dimenoxadol	Norlevorphanol

05467'99

DAM

1	Alpha-acetylmethadol	Dimepheptanol	Normethadone
2	Alphameprodine	Dimethylthiambutene	Norpipanone
3	Alphamethadol	Dioxaphetyl butyrate	Phenadoxone
4	Benzethidine	Dipipanone	Phenampramide
5	Betacetylmethadol	Ethylmethylthiambutene	Phenomorphin
6	Betameprodine	Etonitazene	Phenoperidine
7	Betamethadol	Etoxidine	Piritramide
8	Betaprodine	Furethidine	Proheptazine
9	Clonitazene	Hydroxypethidine	Propertidine
10	Dextromoramide	Ketobemidone	Propiram
11	Diampramide	Levomoramide	Racemoramide
12	Diethylthiambutene	Levophenacymorphan	Trimeperidine
13		Morpheridine	

14
15 (b) Any of the following opium derivatives, their salts,
16 isomers, and salts of isomers, unless specifically excepted, when
17 the existence of these salts, isomers, and salts of isomers is
18 possible within the specific chemical designation:

19

20	Acetorphine	Drotebanol	Morphine-N-Oxide
21	Acetyldihydrocodeine	Etorphine	Myrophine
22	Benzylmorphine	Heroin	Nicocodeine
23	Codeine methylbromide	Hydromorphinol	Nicomorphine
24	Codeine-N-Oxide	Methyl-desorphine	Normorphine
25	Cyprenorphine	Methyldihydromorphine	Pholcodine
26	Desomorphine	Morphine methylbromide	Thebacon
27	Dihydromorphine	Morphine methylsulfonate	

28

29 (c) Any material, compound, mixture, or preparation which
30 contains any quantity of the following hallucinogenic substances,
31 their salts, isomers, and salts of isomers, unless specifically
32 excepted, when the existence of these salts, isomers, and salts
33 of isomers is possible within the specific chemical designation:

34

35 2-Methylamino-1-phenylpropan-1-one
36 Some trade and other names:
37 Methcathinone
38 Cat
39 Ephedrone
40 3, 4-methylenedioxy amphetamine

- 1 5-methoxy-3, 4-methylenedioxy
- 2 amphetamine
- 3 3, 4, 5-trimethoxy amphetamine
- 4 Bufotenine
- 5 Some trade and other names:
- 6 3-(B-dimethylaminoethyl)-5 hydroxyindole
- 7 3-(2-dimethylaminoethyl)-5 indolol
- 8 N,N-dimethylserotonin; 5-hydroxy-N-dimethyltryptamine
- 9 Mappine
- 10 2, 5-Dimethoxyamphetamine
- 11 Some trade or other names:
- 12 2, 5-Dimethoxy-a-methylphenethylamine; 2,5-DMA
- 13 4-Bromo-2, 5-Dimethoxyamphetamine
- 14 Some trade or other names:
- 15 4-bromo-2, 5 dimethoxy-a-methylphenethylamine; 4-bromo
- 16 2,5-DMA
- 17 Diethyltryptamine
- 18 Some trade and other names:
- 19 N,N-Diethyltryptamine; DET
- 20 Dimethyltryptamine
- 21 Some trade or other names:
- 22 DMT
- 23 4-methyl-2, 5-dimethoxyamphetamine
- 24 Some trade and other names:
- 25 4-methyl-2, 5-dimethoxy-a-methyl-phenethylamine
- 26 DOM, STP

- 1 4-methoxyamphetamine
- 2 Some trade or other names:
- 3 4-methoxy- α -methylphenethylamine; paramethoxy amphetamine;
- 4 PMA
- 5 Ibogaine
- 6 Some trade and other names:
- 7 7-Ethyl-6,6a,7,8,9,10,12,13
- 8 Octahydro-2-methoxy-6,9-methano-5H-
- 9 pyrido (1, 2:1, 2 azepino 4, 5-b) indole
- 10 tabernanthe iboga
- 11 Lysergic acid diethylamide
- 12 Marihuana, except as otherwise provided in subsection (2)
- 13 Mecloqualone
- 14 Mescaline
- 15 Peyote
- 16 N-ethyl-3 piperidyl benzilate
- 17 N-methyl-3 piperidyl benzilate
- 18 Psilocybin
- 19 Psilocyn
- 20 Thiophene analog of phencyclidine
- 21 Some trade or other names:
- 22 1-(1-(2-thienyl)cyclohexyl) piperidine)
- 23 2-thienyl analog of phencyclidine; TCP
- 24
- 25 (d) Except as provided in subsection (2), synthetic equiva-
- 26 lents of the substances contained in the plant, or in the
- 27 resinous extractives of cannabis and synthetic substances,

1 derivatives, and their isomers with similar chemical structure or
2 pharmacological activity, or both, such as the following, are
3 included in schedule 1:

4 (i) Δ <UP1> cis or trans tetrahydrocannabinol, and their optical
5 isomers.

6 (ii) Δ <UP6> cis or trans tetrahydrocannabinol, and their opti-
7 cal isomers.

8 (iii) Δ <UP3>,<UP4>, cis or trans tetrahydrocannabinol, and their
9 optical isomers.

10 (e) Compounds of structures of substances referred to in
11 subdivision (d), regardless of numerical designation of atomic
12 positions, are included.

13 (f) Gamma-hydroxybutyrate and any isomer, salt, or salt of
14 isomer of gamma-hydroxybutyrate.

15 Some trade and other names:

16 Sodium oxybate

17 4-hydroxybutanoic acid monosodium salt

18 (G) CIGARETTES WITH A NICOTINE CONTENT OF MAINSTREAM SMOKE
19 OF 5 OR MORE MILLIGRAMS OF NICOTINE PER GRAM OF BURNT TOBACCO.
20 AS USED IN THIS SUBDIVISION, "CIGARETTES" MEANS ROLLS FOR SMOKING
21 MADE WHOLLY OR IN PART OF TOBACCO, IRRESPECTIVE OF SIZE OR SHAPE
22 AND IRRESPECTIVE OF THE TOBACCO BEING FLAVORED, ADULTERATED, OR
23 MIXED WITH ANY OTHER INGREDIENT, THAT HAVE WRAPPERS OR COVERS
24 MADE OF PAPER OR ANY OTHER MATERIAL. CIGARETTES INCLUDE, BUT ARE
25 NOT LIMITED TO, BIDIS CIGARETTES. CIGARETTES DO NOT INCLUDE
26 CIGARS.

1 (2) Marihuana and the substances described in subsection (1)
2 (d) and (e) in schedule 1 shall be regulated as provided in
3 schedule 2, if they are dispensed in the manner provided in sec-
4 tions 7335 and 7336.

5 (3) For purposes of subsection (1), "isomer" includes the
6 optical, position, and geometric isomers.

7 Sec. 7401. (1) Except as authorized by this article, a
8 person shall not manufacture, create, deliver, or possess with
9 intent to manufacture, create, or deliver a controlled substance,
10 a prescription form, an official prescription form, or a counter-
11 feit prescription form. A practitioner licensed by the adminis-
12 trator under this article shall not dispense, prescribe, or
13 administer a controlled substance for other than legitimate and
14 professionally recognized therapeutic or scientific purposes or
15 outside the scope of practice of the practitioner, licensee, or
16 applicant.

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

18 (a) A controlled substance classified in schedule 1 or 2
19 that is a narcotic drug or a drug described in section
20 7214(a)(iv) and:

21 (i) Which is in an amount of 650 grams or more of any mix-
22 ture containing that substance is guilty of a felony punishable
23 by imprisonment for life or any term of years but not less than
24 20 years.

25 (ii) Which is in an amount of 225 grams or more, but less
26 than 650 grams, of any mixture containing that substance is

1 guilty of a felony and shall be imprisoned for not less than 20
2 years nor more than 30 years.

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

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

12 (b) Any other controlled substance classified in schedule 1,
13 2, or 3, except marihuana OR CIGARETTES, is guilty of a felony
14 punishable by imprisonment for not more than 7 years or a fine of
15 not more than \$10,000.00, or both.

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

19 (d) Marihuana or a mixture containing marihuana is guilty of
20 a felony punishable as follows:

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

24 (ii) If the amount is 5 kilograms or more but less than 45
25 kilograms, or 20 plants or more but fewer than 200 plants, by
26 imprisonment for not more than 7 years or a fine of not more than
27 \$500,000.00, or both.

1 (iii) If the amount is less than 5 kilograms or fewer than
2 20 plants, by imprisonment for not more than 4 years or a fine of
3 not more than \$20,000.00, or both.

4 (E) CIGARETTES WITH A NICOTINE CONTENT OF MAINSTREAM SMOKE
5 OF 5 OR MORE MILLIGRAMS OF NICOTINE PER GRAM OF BURNT TOBACCO IS
6 GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE
7 THAN 93 DAYS OR A FINE OF NOT MORE THAN \$500.00, OR BOTH.

8 (F) ~~(e)~~ A substance classified in schedule 5 is guilty of
9 a felony punishable by imprisonment for not more than 2 years or
10 a fine of not more than \$2,000.00, or both.

11 (G) ~~(f)~~ An official prescription form or a counterfeit
12 official prescription form is guilty of a felony punishable by
13 imprisonment for not more than 20 years or a fine of not more
14 than \$25,000.00, or both.

15 (H) ~~(g)~~ A prescription form or a counterfeit prescription
16 form other than an official prescription form or a counterfeit
17 official prescription form is guilty of a felony punishable by
18 imprisonment for not more than 7 years or a fine of not more than
19 \$5,000.00, or both.

20 (3) A term of imprisonment imposed pursuant to subsection
21 (2)(a) or section 7403(2)(a)(i), (ii), (iii), or (iv) shall be
22 imposed to run consecutively with any term of imprisonment
23 imposed for the commission of another felony. An individual
24 subject to a mandatory term of imprisonment under subsection
25 (2)(a) or section 7403(2)(a)(i), (ii), (iii), or (iv) shall not
26 be eligible for probation, suspension of that sentence, or parole
27 during that mandatory term, except and only to the extent that

1 those provisions permit probation for life, and shall not receive
2 a reduction in that mandatory term of imprisonment by disci-
3 plinary credits or any other type of sentence credit reduction.

4 (4) The court may depart from the minimum term of imprison-
5 ment authorized under subsection (2)(a)(*ii*), (*iii*), or (*iv*) if
6 the court finds on the record that there are substantial and com-
7 pelling reasons to do so. In addition, if any of the following
8 apply, the court may depart from the minimum term of imprisonment
9 authorized under subsection (2)(a)(*ii*), (*iii*), or (*iv*) if the
10 individual has not previously been convicted of a felony or an
11 assaultive crime and has not been convicted of another felony or
12 assaultive crime arising from the same transaction as the viola-
13 tion of this section:

14 (a) The person is within the jurisdiction of the circuit
15 court under section 606 of the revised judicature act of 1961,
16 1961 PA 236, MCL 600.606, or section 4 of chapter XIIIA of 1939
17 PA 288, MCL 712A.4.

18 (b) The person is being sentenced under section 18(1)(n) of
19 chapter XIIIA of 1939 PA 288, MCL 712A.18.

20 (5) As used in this section:

21 (a) "Assaultive crime" means a violation of chapter XI of
22 the Michigan penal code, 1931 PA 328, MCL 750.81 to ~~750.90~~
23 750.90G.

24 (B) "CIGARETTES" MEANS THAT TERM AS DEFINED IN SECTION
25 7212(1)(G).

1 (C) ~~(b)~~ "Plant" means a marihuana plant that has produced
2 cotyledons or a cutting of a marihuana plant that has produced
3 cotyledons.