

Act No. 220
Public Acts of 2015
Approved by the Governor
December 16, 2015
Filed with the Secretary of State
December 16, 2015
EFFECTIVE DATE: March 15, 2016

**STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2015**

Introduced by Reps. Pscholka, Aaron Miller, Barrett, Sheppard, Glenn, Crawford, Tedder, Schor, Lucido, Forlini, Leutheuser, Webber, Kivela, Victory, Singh, Glardon, Inman, Lyons, Pagel, Canfield, Yonker, Rendon, Heise, LaVoy, Derek Miller, Geiss, Lane, Dianda, Theis, Kosowski and Zemke

ENROLLED HOUSE BILL No. 4843

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 7403 and 7404 (MCL 333.7403 and 333.7404), as amended by 2012 PA 183.

The People of the State of Michigan enact:

Sec. 7403. (1) A person shall not knowingly or intentionally possess a controlled substance, a controlled substance analogue, or a prescription form unless the controlled substance, controlled substance analogue, or prescription form was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by this article.

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

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

(i) Which is in an amount of 1,000 grams or more of any mixture containing that substance is guilty of a felony punishable by imprisonment for life or any term of years or a fine of not more than \$1,000,000.00, or both.

(ii) Which is in an amount of 450 grams or more, but less than 1,000 grams, of any mixture containing that substance is guilty of a felony punishable by imprisonment for not more than 30 years or a fine of not more than \$500,000.00, or both.

(iii) Which is in an amount of 50 grams or more, but less than 450 grams, of any mixture containing that substance is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than \$250,000.00, or both.

(iv) Which is in an amount of 25 grams or more, but less than 50 grams of any mixture containing that substance is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$25,000.00, or both.

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

(b) Either of the following:

(i) A substance described in section 7212(1)(h) or 7214(c)(ii) is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$15,000.00, or both.

(ii) A controlled substance classified in schedule 1, 2, 3, or 4, except a controlled substance for which a penalty is prescribed in subparagraph (i) or subdivision (a), (c), or (d), or a controlled substance analogue is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000.00, or both.

(c) Lysergic acid diethylamide, peyote, mescaline, dimethyltryptamine, psilocyn, psilocybin, or a controlled substance classified in schedule 5 is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00, or both.

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

(e) A prescription form is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(3) The following individuals are not in violation of this section:

(a) An individual who is less than 21 years of age and who seeks medical assistance for himself or herself or who requires medical assistance and is presented for assistance by another individual if he or she is incapacitated because of a drug overdose or other perceived medical emergency arising from the use of a prescription drug that is a controlled substance or a prescription drug that is a controlled substance analogue that he or she possesses or possessed in an amount sufficient only for personal use and the evidence of his or her violation of this section is obtained as a result of the individual's seeking or being presented for medical assistance.

(b) An individual who is less than 21 years of age and who in good faith attempts to procure medical assistance for another individual or who accompanies another individual who requires medical assistance for a drug overdose or other perceived medical emergency arising from the use of a prescription drug that is a controlled substance or a prescription drug that is a controlled substance analogue that he or she possesses or possessed in an amount sufficient only for personal use and the evidence of his or her violation of this section is obtained as a result of the individual's attempting to procure medical assistance for another individual or as a result of the individual's accompanying another individual who requires medical assistance to a health facility or agency.

(4) A health facility or agency shall develop a process for notification of the parent or parents, guardian, or custodian of a minor under the age of 18 who is not emancipated under 1968 PA 293, MCL 722.1 to 722.6, and who voluntarily presents himself or herself, or is presented by another individual if he or she is incapacitated, to a health facility or agency for emergency medical treatment as provided in subsection (3). A health facility or agency shall not provide notification to a parent or parents, guardian, or custodian under this subsection for nonemergency treatment without obtaining the minor's consent.

(5) The exemption from prosecution under this section provided in subsection (3) shall not prevent the investigation, arrest, charging, or prosecution of an individual for any other violation of the laws of this state or be grounds for suppression of evidence in the prosecution of any other criminal charges.

(6) If an individual was sentenced to lifetime probation under subsection (2)(a)(iv) as it existed before March 1, 2003 and the individual has served 5 or more years of that probationary period, the probation officer for that individual may recommend to the court that the court discharge the individual from probation. If an individual's probation officer does not recommend discharge as provided in this subsection, with notice to the prosecutor, the individual may petition the court seeking resentencing under the court rules. The court may discharge an individual from probation as provided in this subsection. An individual may file more than 1 motion seeking resentencing under this subsection.

(7) As used in this section:

(a) "Drug overdose" means a condition including, but not limited to, extreme physical illness, decreased level of consciousness, respiratory depression, coma, mania, or death, that is the result of consumption or use of a controlled

substance or a controlled substance analogue or a substance with which the controlled substance or controlled substance analogue was combined, or that a layperson would reasonably believe to be a drug overdose that requires medical assistance.

(b) “Seeks medical assistance” includes, but is not limited to, reporting a drug overdose or other medical emergency to law enforcement, the 9-1-1 system, a poison control center, or a medical provider, or assisting someone in reporting a drug overdose or other medical emergency.

Sec. 7404. (1) A person shall not use a controlled substance or controlled substance analogue unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by this article.

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

(a) A controlled substance classified in schedule 1 or 2 as a narcotic drug or a drug described in section 7212(1)(h) or 7214(a)(iv) or (c)(ii) is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00, or both.

(b) A controlled substance classified in schedule 1, 2, 3, or 4, except a controlled substance for which a penalty is prescribed in subdivision (a), (c), or (d), or a controlled substance analogue, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(c) Lysergic acid diethylamide, peyote, mescaline, dimethyltryptamine, psilocyn, psilocybin, or a controlled substance classified in schedule 5 is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than \$500.00, or both.

(d) Marijuana, *catha edulis*, *salvia divinorum*, or a substance described in section 7212(1)(i) is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$100.00, or both.

(3) The following individuals are not in violation of this section:

(a) An individual who is less than 21 years of age and who seeks medical assistance for himself or herself or who requires medical assistance and is presented for assistance by another individual if he or she is incapacitated because of a drug overdose or other perceived medical emergency arising from the use of a prescription drug that is a controlled substance or prescription drug that is a controlled substance analogue that he or she possesses or possessed in an amount sufficient only for personal use and the evidence of his or her violation of this section is obtained as a result of the individual's seeking or being presented for medical assistance.

(b) An individual who is less than 21 years of age and who in good faith attempts to procure medical assistance for another individual or who accompanies another individual who requires medical assistance for a drug overdose or other perceived medical emergency arising from the use of a prescription drug that is a controlled substance or a prescription drug that is a controlled substance analogue that he or she possesses or possessed in an amount sufficient only for personal use and the evidence of his or her violation of this section is obtained as a result of the individual's attempting to procure medical assistance for another individual or as a result of the individual's accompanying another individual who requires medical assistance to a health facility or agency.

(4) A health facility or agency shall develop a process for notification of the parent or parents, guardian, or custodian of a minor under the age of 18 who is not emancipated under 1968 PA 293, MCL 722.1 to 722.6, and who voluntarily presents himself or herself, or is presented by another individual if he or she is incapacitated, to a health facility or agency for emergency medical treatment as provided in subsection (3). A health facility or agency shall not provide notification to a parent or parents, guardian, or custodian under this subsection for nonemergency treatment without obtaining the minor's consent.

(5) The exemption from prosecution under this section provided in subsection (3) shall not prevent the investigation, arrest, charging, or prosecution of an individual for any other violation of the laws of this state, or be grounds for suppression of evidence in the prosecution of any other criminal charges.

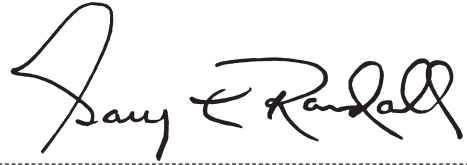
(6) As used in this section:

(a) “Drug overdose” means a condition including, but not limited to, extreme physical illness, decreased level of consciousness, respiratory depression, coma, mania, or death, that is the result of consumption or use of a controlled substance or a controlled substance analogue or a substance with which the controlled substance or controlled substance analogue was combined, or that a layperson would reasonably believe to be a drug overdose that requires medical assistance.

(b) “Seeks medical assistance” includes, but is not limited to, reporting a drug overdose or other medical emergency to law enforcement, the 9-1-1 system, a poison control center, or a medical provider, or assisting someone in reporting a drug overdose or other medical emergency.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor