

HOUSE BILL NO. 5710

May 07, 2024, Introduced by Reps. Bruck, Friske, Rigas, Bezotte, DeBoyer and Beeler and referred to the Committee on Government Operations.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 7340c, 7401, 7401c, 7402, 7403, 7404, 7405, 7406, 7410, and 17766c (MCL 333.7340c, 333.7401, 333.7401c, 333.7402, 333.7403, 333.7404, 333.7405, 333.7406, 333.7410, and 333.17766c), section 7340c as amended by 2016 PA 125, section 7401 as amended by 2016 PA 548, section 7401c as amended by 2003 PA 310, section 7402 as amended by 2012 PA 183, section 7403 as amended by 2016 PA 307, section 7404 as amended by 2016 PA 308, section 7405 as amended by 2016 PA 49, section 7410 as amended by 2016 PA 128,

and section 17766c as amended by 2014 PA 216.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7340c. (1) A person shall not solicit another person to
2 purchase or otherwise obtain any amount of ephedrine or
3 pseudoephedrine knowing that it is to be used for the purpose of
4 illegally manufacturing methamphetamine.

5 (2) Except as provided in subsection (3), a person who
6 violates this section is guilty of a felony punishable by
7 imprisonment for not ~~more~~ **less** than ~~10 years~~ **182 days** or **more than**
8 **life or any term of years** or a fine of not more than \$10,000.00, or
9 both.

10 (3) A person who attempts to violate subsection (1) is guilty
11 of a misdemeanor punishable by imprisonment for not more than 1
12 year or a fine of not more than \$1,000.00, or both.

13 (4) This section does not prohibit the person from being
14 charged with, convicted of, or sentenced for any other violation of
15 law committed by the person while violating this section.

16 (5) If a person is convicted of violating this section, the
17 court shall report the violation to the department of state police.

18 (6) For purposes of this section:

19 (a) "Ephedrine" includes the salts and isomers and salts of
20 isomers of ephedrine.

21 (b) "Pseudoephedrine" includes the salts and isomers and salts
22 of isomers of pseudoephedrine.

23 Sec. 7401. (1) Except as authorized by this article, a person
24 shall not manufacture, create, deliver, or possess with intent to
25 manufacture, create, or deliver a controlled substance, a
26 prescription form, or a counterfeit prescription form. A
27 practitioner licensed by the administrator under this article shall

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

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

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

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

12 (ii) ~~Which~~**That** is in an amount of 450 grams or more, but less
13 than 1,000 grams, of any mixture containing that substance is
14 guilty of a felony and punishable by imprisonment for not ~~more~~**less**
15 than ~~30~~**15** years or **more than life or any term of years or** a fine
16 of not more than \$500,000.00, or both.

17 (iii) ~~Which~~**That** is in an amount of 50 grams or more, but less
18 than 450 grams, of any mixture containing that substance is guilty
19 of a felony punishable by imprisonment for not ~~more~~**less** than ~~20~~**10**
20 years or **more than life or any term of years or** a fine of not more
21 than \$250,000.00, or both.

22 (iv) ~~Which~~**That** is in an amount less than 50 grams, of any
23 mixture containing that substance is guilty of a felony punishable
24 by imprisonment for not ~~more~~**less** than ~~20~~**5** years or **more than life**
25 **or any term of years or** a fine of not more than \$25,000.00, or
26 both.

27 (b) Either of the following:

28 (i) A substance described in section 7212(1) (h) or 7214(c) (ii)
29 is guilty of a felony punishable by imprisonment for not ~~more~~**less**

1 than ~~20~~15 years or **more than life or any term of years** or a fine
2 of not more than \$25,000.00, or both.

3 (ii) Any other controlled substance classified in schedule 1,
4 2, or 3, except marihuana or a substance listed in section
5 7212(1) (d), is guilty of a felony punishable by imprisonment for
6 not ~~more~~less than ~~7~~10 years or **more than life or any term of**
7 **years or** a fine of not more than \$10,000.00, or both.

8 (c) A substance classified in schedule 4 is guilty of a felony
9 punishable by imprisonment for not ~~more~~less than ~~4~~5 years or **more**
10 **than life or any term of years or** a fine of not more than
11 \$2,000.00, or both.

12 (d) Marihuana, a mixture containing marihuana, or a substance
13 listed in section 7212(1) (d) is guilty of a felony punishable as
14 follows:

15 (i) If the amount is 45 kilograms or more, or 200 plants or
16 more, by imprisonment for not ~~more~~less than ~~15~~4 years or **more**
17 **than life or any term of years or** a fine of not more than
18 \$10,000,000.00, or both.

19 (ii) If the amount is 5 kilograms or more but less than 45
20 kilograms, or 20 plants or more but fewer than 200 plants, by
21 imprisonment for not ~~more~~less than ~~7~~4 years or **more than life or**
22 **any term of years or** a fine of not more than \$500,000.00, or both.

23 (iii) If the amount is less than 5 kilograms or fewer than 20
24 plants, by imprisonment for not ~~more~~less than 4 years or **more than**
25 **life or any term of years or** a fine of not more than \$20,000.00, or
26 both.

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

1 (f) A prescription form or a counterfeit prescription form is
 2 guilty of a felony punishable by imprisonment for not ~~more~~**less**
 3 than ~~7-4~~ years or **more than life or any term of years** or a fine of
 4 not more than \$5,000.00, or both.

5 (3) A term of imprisonment imposed under subsection (2)(a) may
 6 be imposed to run consecutively with any term of imprisonment
 7 imposed for the commission of another felony.

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

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

22 Sec. 7401c. (1) A person shall not do any of the following:

23 (a) Own, possess, or use a vehicle, building, structure,
 24 place, or area that ~~he or she~~**the person** knows or has reason to
 25 know is to be used as a location to manufacture a controlled
 26 substance in violation of section 7401 or a counterfeit substance
 27 or a controlled substance analogue in violation of section 7402.

28 (b) Own or possess any chemical or any laboratory equipment
 29 that ~~he or she~~**the person** knows or has reason to know is to be used

1 for the purpose of manufacturing a controlled substance in
2 violation of section 7401 or a counterfeit substance or a
3 controlled substance analogue in violation of section 7402.

4 (c) Provide any chemical or laboratory equipment to another
5 person knowing or having reason to know that the other person
6 intends to use that chemical or laboratory equipment for the
7 purpose of manufacturing a controlled substance in violation of
8 section 7401 or a counterfeit substance or a controlled substance
9 analogue in violation of section 7402.

10 (2) A person who violates this section is guilty of a felony
11 punishable as follows:

12 (a) Except as provided in subdivisions (b) to (f), by
13 imprisonment for not ~~more~~**less** than ~~10~~**5** years or **more than life or**
14 **any term of years or** a fine of not more than \$100,000.00, or both.

15 (b) If the violation is committed in the presence of a minor,
16 by imprisonment for not ~~more~~**less** than ~~20~~**5** years or **more than life**
17 **or any term of years or** a fine of not more than \$100,000.00, or
18 both.

19 (c) If the violation involves the unlawful generation,
20 treatment, storage, or disposal of a hazardous waste, by
21 imprisonment for not ~~more~~**less** than ~~20~~**5** years or **more than life or**
22 **any term of years or** a fine of not more than \$100,000.00, or both.

23 (d) If the violation occurs within 500 feet of a residence,
24 business establishment, school property, or church or other house
25 of worship, by imprisonment for not ~~more~~**less** than ~~20~~**5** years or
26 **more than life or any term of years or** a fine of not more than
27 \$100,000.00, or both.

28 (e) If the violation involves the possession, placement, or
29 use of a firearm or any other device designed or intended to be

1 used to injure another person, by imprisonment for not more than 25
2 years or a fine of not more than \$100,000.00, or both.

3 (f) If the violation involves or is intended to involve the
4 manufacture of a substance described in section 7214(c) (ii), by
5 imprisonment for not ~~more-less~~ than ~~20-5~~ years or **more than life or**
6 **any term of years or** a fine of not more than \$25,000.00, or both.

7 (3) This section does not apply to a violation involving only
8 a substance described in section 7214(a) (iv) or marihuana, or both.

9 (4) This section does not prohibit the person from being
10 charged with, convicted of, or punished for any other violation of
11 law committed by that person while violating or attempting to
12 violate this section.

13 (5) A term of imprisonment imposed under this section may be
14 served consecutively to any other term of imprisonment imposed for
15 a violation of law arising out of the same transaction.

16 (6) The court may, as a condition of sentence, order a person
17 convicted of a violation punishable under subsection (2) (c) to pay
18 response activity costs arising out of the violation.

19 (7) As used in this section:

20 (a) "Hazardous waste" means that term as defined in section
21 11103 of the natural resources and environmental protection act,
22 1994 PA 451, MCL 324.11103.

23 (b) "Laboratory equipment" means any equipment, device, or
24 container used or intended to be used in the process of
25 manufacturing a controlled substance, counterfeit substance, or
26 controlled substance analogue.

27 (c) "Manufacture" means the production, preparation,
28 propagation, compounding, conversion, or processing of a controlled
29 substance, directly or indirectly by extraction from substances of

1 natural origin, or independently by means of chemical synthesis, or
2 by a combination of extraction and chemical synthesis. Manufacture
3 does not include any of the following:

4 (i) The packaging or repackaging of the substance or labeling
5 or relabeling of its container.

6 (ii) The preparation or compounding of a controlled substance
7 by any of the following:

8 (A) A practitioner as an incident to the practitioner's
9 administering or dispensing of a controlled substance in the course
10 of ~~his or her~~ **the practitioner's** professional practice.

11 (B) A practitioner, or by the practitioner's authorized agent
12 under ~~his or her~~ **the practitioner's** supervision, for the purpose
13 of, or as an incident to, research, teaching, or chemical analysis
14 and not for sale.

15 (d) "Minor" means an individual less than 18 years of age.

16 (e) "Response activity costs" means that term as defined in
17 section 20101 of the natural resources and environmental protection
18 act, 1994 PA 451, MCL 324.20101.

19 (f) "School property" means that term as defined in section
20 7410.

21 (g) "Vehicle" means that term as defined in section 79 of the
22 Michigan vehicle code, 1949 PA 300, MCL 257.79.

23 Sec. 7402. (1) Except as authorized by this article, a person
24 shall not create, manufacture, deliver, or possess with intent to
25 deliver a counterfeit substance or a controlled substance analogue
26 intended for human consumption. This section does not apply to a
27 person who manufactures or distributes a substance in conformance
28 with the provisions of an approved new drug application or an
29 exemption for investigational use within the meaning of section 505

1 of the federal food, drug, and cosmetic act, ~~21 U.S.C. 355.~~ **21 USC**
 2 **355.** For purposes of this section, section 505 of the federal food,
 3 drug, and cosmetic act, ~~shall be 21 USC 355,~~ **is** applicable to the
 4 introduction or delivery for introduction of any new drug into
 5 intrastate, interstate, or foreign commerce.

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

7 (a) A counterfeit substance classified in schedule 1 or 2
 8 ~~which that~~ is either a narcotic drug or a drug described in section
 9 7212(1) (h) or 7214(a) (iv) or (c) (ii), is guilty of a felony
 10 punishable by imprisonment for not ~~more~~ **less** than ~~10~~ **4** years or
 11 **more than life or any term of years or** a fine of not more than
 12 \$10,000.00, or both.

13 (b) Any other counterfeit substance classified in schedule 1,
 14 2, or 3, is guilty of a felony punishable by imprisonment for not
 15 more than 5 years or a fine of not more than \$5,000.00, or both.

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

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

22 (e) A controlled substance analogue, is guilty of a felony
 23 punishable by imprisonment for not ~~more~~ **less** than ~~15~~ **4** years or
 24 **more than life or any term of years or** a fine of not more than
 25 \$250,000.00, or both.

26 Sec. 7403. (1) A person shall not knowingly or intentionally
 27 possess a controlled substance, a controlled substance analogue, or
 28 a prescription form unless the controlled substance, controlled
 29 substance analogue, or prescription form was obtained directly

1 from, or pursuant to, a valid prescription or order of a
2 practitioner while acting in the course of the practitioner's
3 professional practice, or except as otherwise authorized by this
4 article.

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

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

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

12 (ii) That is in an amount of 450 grams or more, but less than
13 1,000 grams, of any mixture containing that substance is guilty of
14 a felony punishable by imprisonment for not ~~more~~**less** than ~~30~~**15**
15 years or **more than life or any term of years or** a fine of not more
16 than \$500,000.00, or both.

17 (iii) That is in an amount of 50 grams or more, but less than
18 450 grams, of any mixture containing that substance is guilty of a
19 felony punishable by imprisonment for not ~~more~~**less** than ~~20~~**10**
20 years or **more than life or any term of years or** a fine of not more
21 than \$250,000.00, or both.

22 (iv) That is in an amount of 25 grams or more, but less than 50
23 grams of any mixture containing that substance is guilty of a
24 felony punishable by imprisonment for not ~~more~~**less** than ~~4~~**5** years
25 **or more than life or any term of years or** a fine of not more than
26 \$25,000.00, or both.

27 (v) That is in an amount less than 25 grams of any mixture
28 containing that substance is guilty of a felony punishable by
29 imprisonment for not ~~more~~**less** than ~~4~~**2** years or **more than life or**

1 **any term of years or** a fine of not more than \$25,000.00, or both.

2 (b) Either of the following:

3 (i) A substance described in section 7212(1)(h) or 7214(c) *(ii)*
4 is guilty of a felony punishable by imprisonment for not ~~more~~-**less**
5 than ~~10~~-2 years or **more than life or any term of years or** a fine of
6 not more than \$15,000.00, or both.

7 (ii) A controlled substance classified in schedule 1, 2, 3, or
8 4, except a controlled substance for which a penalty is prescribed
9 in subparagraph (i) or subdivision (a), (c), or (d), or a controlled
10 substance analogue is guilty of a felony punishable by imprisonment
11 for not ~~more~~-**less** than 2 years or **more than life or any term of**
12 **years or** a fine of not more than \$2,000.00, or both.

13 (c) Lysergic acid diethylamide, peyote, mescaline,
14 dimethyltryptamine, psilocyn, psilocybin, or a controlled substance
15 classified in schedule 5 is guilty of a misdemeanor punishable by
16 imprisonment for not more than 1 year or a fine of not more than
17 \$2,000.00, or both.

18 (d) Marihuana or a substance listed in section 7212(1)(d) is
19 guilty of a misdemeanor punishable by imprisonment for not more
20 than 1 year or a fine of not more than \$2,000.00, or both.

21 (e) A prescription form is guilty of a misdemeanor punishable
22 by imprisonment for not more than 1 year or a fine of not more than
23 \$1,000.00, or both.

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

26 (a) An individual who seeks medical assistance for ~~himself or~~
27 ~~herself~~-**the individual** or who requires medical assistance and is
28 presented for assistance by another individual if ~~he or she~~-**the**
29 **individual** is incapacitated because of a drug overdose or other

1 perceived medical emergency arising from the use of a controlled
2 substance or a controlled substance analogue that ~~he or she~~ **the**
3 **individual** possesses or possessed in an amount sufficient only for
4 personal use and the evidence of ~~his or her~~ **the individual's**
5 violation of this section is obtained as a result of the
6 individual's seeking or being presented for medical assistance.

7 (b) An individual who in good faith attempts to procure
8 medical assistance for another individual or who accompanies
9 another individual who requires medical assistance for a drug
10 overdose or other perceived medical emergency arising from the use
11 of a controlled substance or a controlled substance analogue that
12 ~~he or she~~ **the individual** possesses or possessed in an amount
13 sufficient only for personal use and the evidence of ~~his or her~~ **the**
14 **individual's** violation of this section is obtained as a result of
15 the individual's attempting to procure medical assistance for
16 another individual or as a result of the individual's accompanying
17 another individual who requires medical assistance to a health
18 facility or agency.

19 (4) A health facility or agency shall develop a process for
20 notification of the parent or parents, guardian, or custodian of a
21 minor under ~~the age of 18~~ **years of age** who is not emancipated under
22 1968 PA 293, MCL 722.1 to 722.6, and who voluntarily presents
23 ~~himself or herself,~~ **the minor**, or is presented by another
24 individual if ~~he or she~~ **the minor** is incapacitated, to a health
25 facility or agency for emergency medical treatment as provided in
26 subsection (3). A health facility or agency shall not provide
27 notification to a parent or parents, guardian, or custodian under
28 this subsection for nonemergency treatment without obtaining the
29 minor's consent.

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

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

17 (7) As used in this section:

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

26 (b) "Seeks medical assistance" means reporting a drug overdose
27 or other medical emergency to law enforcement, the 9-1-1 system, a
28 poison control center, or a medical provider, or assisting someone
29 in reporting a drug overdose or other medical emergency.

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

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

8 (a) A controlled substance classified in schedule 1 or 2 as a
9 narcotic drug or a drug described in section 7212(1)(h) or
10 7214(a)(iv) or (c)(ii) is guilty of a ~~misdemeanor~~**felony** punishable
11 by imprisonment for not ~~more~~**less** than ~~1 year~~**2 years** or **more than**
12 **life or any term of years** or a fine of not more than \$2,000.00, or
13 both.

14 (b) A controlled substance classified in schedule 1, 2, 3, or
15 4, except a controlled substance for which a penalty is prescribed
16 in subdivision (a), (c), or (d), or a controlled substance
17 analogue, is guilty of a misdemeanor punishable by imprisonment for
18 not more than 1 year or a fine of not more than \$1,000.00, or both.

19 (c) Lysergic acid diethylamide, peyote, mescaline,
20 dimethyltryptamine, psilocyn, psilocybin, or a controlled substance
21 classified in schedule 5 is guilty of a misdemeanor punishable by
22 imprisonment for not more than 6 months or a fine of not more than
23 \$500.00, or both.

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

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

1 (a) An individual who seeks medical assistance for ~~himself or~~
 2 ~~herself~~ **the individual** or who requires medical assistance and is
 3 presented for assistance by another individual if ~~he or she~~ **the**
 4 **individual** is incapacitated because of a drug overdose or other
 5 perceived medical emergency arising from the use of a controlled
 6 substance or a controlled substance analogue that ~~he or she~~ **the**
 7 **individual** possesses or possessed in an amount sufficient only for
 8 personal use and the evidence of ~~his or her~~ **the individual's**
 9 violation of this section is obtained as a result of the
 10 individual's seeking or being presented for medical assistance.

11 (b) An individual who in good faith attempts to procure
 12 medical assistance for another individual or who accompanies
 13 another individual who requires medical assistance for a drug
 14 overdose or other perceived medical emergency arising from the use
 15 of a controlled substance or a controlled substance analogue that
 16 ~~he or she~~ **the individual** possesses or possessed in an amount
 17 sufficient only for personal use and the evidence of ~~his or her~~ **the**
 18 **individual's** violation of this section is obtained as a result of
 19 the individual's attempting to procure medical assistance for
 20 another individual or as a result of the individual's accompanying
 21 another individual who requires medical assistance to a health
 22 facility or agency.

23 (4) A health facility or agency shall develop a process for
 24 notification of the parent or parents, guardian, or custodian of a
 25 minor under ~~the age of 18~~ **years of age** who is not emancipated under
 26 1968 PA 293, MCL 722.1 to 722.6, and who voluntarily presents
 27 ~~himself or herself,~~ **the minor**, or is presented by another
 28 individual if ~~he or she~~ **the minor** is incapacitated, to a health
 29 facility or agency for emergency medical treatment as provided in

1 subsection (3). A health facility or agency shall not provide
2 notification to a parent or parents, guardian, or custodian under
3 this subsection for nonemergency treatment without obtaining the
4 minor's consent.

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

10 (6) As used in this section:

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

19 (b) "Seeks medical assistance" means reporting a drug overdose
20 or other medical emergency to law enforcement, the 9-1-1 system, a
21 poison control center, or a medical provider, or assisting someone
22 in reporting a drug overdose or other medical emergency.

23 Sec. 7405. (1) A person shall not do any of the following:

24 (a) If the person is licensed by the administrator under this
25 article, distribute, prescribe, or dispense a controlled substance
26 in violation of section 7333.

27 (b) If the person is a licensee, manufacture a controlled
28 substance not authorized by ~~his or her~~ **the person's** license or
29 distribute, prescribe, or dispense a controlled substance not

1 authorized by ~~his or her~~ **the person's** license to another licensee
2 or other authorized person, except as authorized by rules
3 promulgated by the administrator.

4 (c) Refuse an entry into any premises for an inspection
5 authorized by this article.

6 (d) Knowingly keep or maintain a store, shop, warehouse,
7 dwelling, building, vehicle, boat, aircraft, or other structure or
8 place that is frequented by persons using controlled substances in
9 violation of this article for the purpose of using controlled
10 substances or that is used for keeping or selling controlled
11 substances in violation of this article.

12 (e) If the person is a practitioner, dispense a controlled
13 substance under a prescription written and signed; written or
14 created in an electronic format, signed, and transmitted by
15 facsimile; or transmitted electronically or by other means of
16 communication by a physician prescriber, dentist prescriber, or
17 veterinarian prescriber licensed to practice in another state,
18 unless the prescription is issued by a physician prescriber,
19 dentist prescriber, or veterinarian prescriber who is authorized
20 under the laws of that state to practice dentistry, medicine,
21 osteopathic medicine and surgery, or veterinary medicine and to
22 prescribe controlled substances.

23 (2) ~~A~~ **Except as provided in subsection (3),** a person who
24 violates subsection (1) is subject to the penalties prescribed in
25 section 7406.

26 (3) **A person who violates subsection (1) (d) is guilty of a**
27 **felony punishable by imprisonment for not less than 4 years or more**
28 **than life or any term of years or a fine of not more than**
29 **\$25,000.00, or both.**

1 Sec. 7406. ~~A~~**Except as provided in section 7405 for a**
2 **violation of section 7405(1) (d),** a person who violates section 7405
3 may be punished by a civil fine of not more than \$25,000.00 in a
4 proceeding in the circuit court. However, if the violation is
5 prosecuted by a criminal indictment alleging that the violation was
6 committed knowingly or intentionally, and the trier of the fact
7 specifically finds that the violation was committed knowingly or
8 intentionally, the person is guilty of a misdemeanor, punishable by
9 imprisonment for not more than 2 years, or a fine of not more than
10 \$25,000.00, or both.

11 Sec. 7410. (1) Except as otherwise provided in subsections (2)
12 and (3), an individual 18 years of age or over who violates section
13 7401(2) (a) (iv) by delivering or distributing a controlled substance
14 listed in schedule 1 or 2 that is either a narcotic drug or
15 described in section 7214(a) (iv) to an individual under 18 years of
16 age who is at least 3 years the deliverer's or distributor's junior
17 may be punished by the fine authorized by section 7401(2) (a) (iv) or
18 by a term of imprisonment of not less than 1 year nor more than
19 twice that authorized by section 7401(2) (a) (iv), or both. An
20 individual 18 years of age or over who violates section 7401 or
21 7401b by delivering or distributing any other controlled substance
22 listed in schedules 1 to 5 or gamma-butyrolactone to an individual
23 under 18 years of age who is at least 3 years the distributor's
24 junior may be punished by the fine authorized by section
25 7401(2) (b), (c), or (d) or 7401b, or by a term of imprisonment not
26 more than twice that authorized by section 7401(2) (b), (c), or (d)
27 or 7401b, or both.

28 (2) An individual 18 years of age or over who violates section
29 7401(2) (a) (iv) by delivering a controlled substance described in

1 schedule 1 or 2 that is either a narcotic drug or described in
 2 section 7214(a) (iv) to another person on or within 1,000 feet of
 3 school property or a library shall be punished, subject to
 4 subsection (5), by a term of imprisonment of not less than ~~2-4~~
 5 years or more than ~~3 times that authorized by section 7401(2) (a) (iv)~~
 6 **life or any term of years** and, in addition, may be punished by a
 7 fine of not more than 3 times that authorized by section
 8 7401(2) (a) (iv) .

9 (3) An individual 18 years of age or over who violates section
 10 7401(2) (a) (iv) by possessing with intent to deliver to another
 11 person on or within 1,000 feet of school property or a library a
 12 controlled substance described in schedule 1 or 2 that is either a
 13 narcotic drug or described in section 7214(a) (iv) shall be punished,
 14 subject to subsection (5), by a term of imprisonment of not less
 15 than ~~2-4~~ years or more than ~~twice that authorized by section~~
 16 ~~7401(2) (a) (iv)~~ **life or any term of years** and, in addition, may be
 17 punished by a fine of not more than 3 times that authorized by
 18 section 7401(2) (a) (iv) .

19 (4) An individual 18 years of age or over who violates section
 20 7401b or 7403(2) (a) (v), (b), (c), or (d) by possessing gamma-
 21 butyrolactone or a controlled substance on or within 1,000 feet of
 22 school property or a library shall be punished by a term of
 23 imprisonment or a fine, or both, of not more than twice that
 24 authorized by section 7401b or 7403(2) (a) (v), (b), (c), or (d) .

25 (5) The court may depart from the minimum term of imprisonment
 26 authorized under subsection (2) or (3) if the court finds on the
 27 record that there are substantial and compelling reasons to do so.

28 (6) An individual 18 years of age or over who violates section
 29 7401 by manufacturing methamphetamine as that term is described in

1 section 7214(c) (ii) on or within 1,000 feet of school property or a
2 library shall be punished by a term of imprisonment or a fine, or
3 both, of not more than twice that authorized by section
4 7401(2) (b) (i) .

5 (7) A person who distributes marihuana without remuneration
6 and not to further commercial distribution and who does not violate
7 subsection (1) is guilty of a misdemeanor punishable by
8 imprisonment for not more than 1 year or a fine of not more than
9 \$1,000.00, or both, unless the distribution is in accordance with
10 the federal law or the law of this state.

11 (8) As used in this section:

12 (a) "Library" means a library that is established by the
13 state; a county, city, township, village, school district, or other
14 local unit of government or authority or combination of local units
15 of government and authorities; a community college district; a
16 college or university; or any private library open to the public.

17 (b) "School property" means a building, playing field, or
18 property used for school purposes to impart instruction to children
19 in grades kindergarten through 12, when provided by a public,
20 private, denominational, or parochial school, except those
21 buildings used primarily for adult education or college extension
22 courses.

23 Sec. 17766c. (1) A person shall not do any of the following:

24 (a) Purchase more than 3.6 grams of ephedrine or
25 pseudoephedrine alone or in a mixture within a single calendar day.

26 (b) Purchase more than 9 grams of ephedrine or pseudoephedrine
27 alone or in a mixture within a 30-day period.

28 (c) Possess more than 12 grams of ephedrine or pseudoephedrine
29 alone or in a mixture.

1 (d) Purchase or possess any amount of ephedrine or
2 pseudoephedrine knowing or having reason to know that it is to be
3 used to manufacture methamphetamine.

4 (2) A person who violates this section is guilty of a crime as
5 follows:

6 (a) A person who violates subsection (1)(a) or (b) is guilty
7 of a misdemeanor punishable by imprisonment for not more than 93
8 days or a fine of not more than \$500.00, or both.

9 (b) A person who violates subsection (1)(c) is guilty of a
10 felony punishable by imprisonment for not more than 2 years or a
11 fine of not more than \$2,000.00, or both.

12 (c) A person who violates subsection (1)(d) is guilty of a
13 felony punishable by imprisonment for not ~~more~~**less** than ~~5 years~~
14 **182 days or more than life or any term of years** or a fine of not
15 more than \$5,000.00, or both. This subdivision does not prohibit
16 the person from being charged with, convicted of, and sentenced for
17 any other violation of law arising out of the violation of
18 subsection (1)(d).

19 (3) This section does not apply to any of the following:

20 (a) A person who possesses ephedrine or pseudoephedrine
21 pursuant to a license issued by this state or the United States to
22 manufacture, deliver, dispense, possess with intent to manufacture
23 or deliver, or possess a controlled substance, prescription drug,
24 or other drug.

25 (b) An individual who possesses ephedrine or pseudoephedrine
26 pursuant to a prescription.

27 (c) A person who possesses ephedrine or pseudoephedrine for
28 retail sale pursuant to a license issued under the general sales
29 tax act, 1933 PA 167, MCL 205.51 to 205.78.

1 (d) A person who possesses ephedrine or pseudoephedrine in the
2 course of ~~his or her~~ **the person's** business of selling or
3 transporting ephedrine or pseudoephedrine to a person described in
4 subdivision (a) or (c).

5 (e) A person who, in the course of ~~his or her~~ **the person's**
6 business, stores ephedrine or pseudoephedrine for sale or
7 distribution to a person described in subdivision (a), (c), or (d).

8 (f) Any product that the state board of pharmacy, upon
9 application of a manufacturer, exempts from this section because
10 the product has been formulated in such a way as to effectively
11 prevent the conversion of the active ingredient into
12 methamphetamine.

13 (g) Possession of any pediatric product primarily intended for
14 administration to children under 12 years of age according to label
15 instructions.

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