



SENATE BILL No. 283

February 14, 1995, Introduced by Senator VAN REGENMORTER
and referred to the Committee on Judiciary.

A bill to amend section 7401 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 section 333.7401 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 7401 of Act No. 368 of the Public Acts
2 of 1978, as amended by Act No. 221 of the Public Acts of 1994,
3 being section 333.7401 of the Michigan Compiled Laws, is amended
4 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 EXCEPT AS OTHERWISE PROVIDED IN THIS
13 SUBPARAGRAPH. A JUVENILE CONVICTED OF VIOLATING THIS SUBPARA-
14 GRAPH WHO IS WITHIN THE COURT'S JURISDICTION FOR SENTENCING PUR-
15 SUANT TO SECTION 1 OF CHAPTER IX OF THE CODE OF CRIMINAL PROCE-
16 DURE, ACT NO. 175 OF THE PUBLIC ACTS OF 1927, BEING SECTION 769.1
17 OF THE MICHIGAN COMPILED LAWS, SHALL BE PUNISHED EITHER BY IMPO-
18 SITION OF THE SENTENCE PROVIDED IN THIS SUBPARAGRAPH OR, IF THE
19 COURT DETERMINES THAT IT IS IN THE BEST INTERESTS OF THE PUBLIC,
20 A SENTENCE OF ANY TERM OF YEARS BUT NOT LESS THAN 25 YEARS.

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

25 (iii) Which is in an amount of 50 grams or more, but less
26 than 225 grams, of any mixture containing that substance is

1 guilty of a felony and shall be imprisoned for not less than 10
2 years nor more than 20 years.

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

8 (b) Any other controlled substance classified in schedule 1,
9 2, or 3, except marihuana, is guilty of a felony, punishable by
10 imprisonment for not more than 7 years, or a fine of not more
11 than \$10,000.00, or both.

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

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

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

20 (ii) If the amount is 5 kilograms or more but less than 45
21 kilograms, or 20 plants or more but fewer than 200 plants, by
22 imprisonment for not more than 7 years or a fine of not more than
23 \$500,000.00, or both.

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

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

4 (f) An official prescription form or a counterfeit official
5 prescription form, is guilty of a felony, punishable by imprison-
6 ment for not more than 20 years, or a fine of not more than
7 \$25,000.00, or both.

8 (g) A prescription form or a counterfeit prescription form
9 other than an official prescription form or a counterfeit offi-
10 cial prescription form, is guilty of a felony, punishable by
11 imprisonment for not more than 7 years, or a fine of not more
12 than \$5,000.00, or both.

13 (3) A term of imprisonment imposed pursuant to subsection
14 (2)(a) or section 7403(2)(a)(i), (ii), (iii), or (iv) shall be
15 imposed to run consecutively with any term of imprisonment
16 imposed for the commission of another felony. An individual
17 subject to a mandatory term of imprisonment under subsection
18 (2)(a) or section 7403(2)(a)(i), (ii), (iii), or (iv) shall not
19 be eligible for probation, suspension of that sentence, or parole
20 during that mandatory term, except and only to the extent that
21 those provisions permit probation for life, and shall not receive
22 a reduction in that mandatory term of imprisonment by disci-
23 plinary credits or any other type of sentence credit reduction.

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

1 (5) As used in this section, "plant" means a marihuana plant
2 that has produced cotyledons or a cutting of a marihuana plant
3 that has produced cotyledons.

4 Section 2. This amendatory act shall not take effect unless
5 all of the following bills of the 88th Legislature are enacted
6 into law:

7 (a) Senate Bill No. 282.

8

9 (b) Senate Bill No. 284.

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