

**SUBSTITUTE FOR
SENATE BILL NO. 1043**

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 7401, 7402, 7403, 7404, 7410, and 7410a (MCL 333.7401, 333.7402, 333.7403, 333.7404, 333.7410, and 333.7410a), section 7401 as amended by 1998 PA 319, sections 7402 and 7404 as amended by 1994 PA 38, section 7403 as amended by 1996 PA 249, section 7410 as amended by 1999 PA 188, and section 7410a as added by 1998 PA 261, and by adding section 7401b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7401. (1) Except as authorized by this article, a
2 person shall not manufacture, create, deliver, or possess with
3 intent to manufacture, create, or deliver a controlled substance,
4 a prescription form, an official prescription form, or a
5 counterfeit prescription form. A practitioner licensed by the
6 administrator under this article shall not dispense, prescribe,

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1 or administer a controlled substance for other than legitimate
2 and professionally recognized therapeutic or scientific purposes
3 or outside the scope of practice of the practitioner, licensee,
4 or applicant.

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

6 (a) A controlled substance classified in schedule 1 or 2
7 that is a narcotic drug or a drug described in section
8 7214(a)(iv) OR (C)(ii) and:

9 (i) Which is in an amount of 650 grams or more of any mix-
10 ture containing that substance is guilty of a felony punishable
11 by imprisonment for life or any term of years but not less than
12 20 years.

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

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

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

26 (b) Any other controlled substance classified in schedule 1,
27 2, or 3, except marihuana is guilty of a felony punishable by

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1 imprisonment for not more than 7 years or a fine of not more than
2 \$10,000.00, or both.

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

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

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

11 (ii) If the amount is 5 kilograms or more but less than 45
12 kilograms, or 20 plants or more but fewer than 200 plants, by
13 imprisonment for not more than 7 years or a fine of not more than
14 \$500,000.00, or both.

15 (iii) If the amount is less than 5 kilograms or fewer than
16 20 plants, by imprisonment for not more than 4 years or a fine of
17 not more than \$20,000.00, or both.

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

21 (f) An official prescription form or a counterfeit official
22 prescription form is guilty of a felony punishable by imprison-
23 ment for not more than 20 years or a fine of not more than
24 \$25,000.00, or both.

25 (g) A prescription form or a counterfeit prescription form
26 other than an official prescription form or a counterfeit
27 official prescription form is guilty of a felony punishable by

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1 imprisonment for not more than 7 years or a fine of not more than
2 \$5,000.00, or both.

3 (3) A term of imprisonment imposed ~~pursuant to~~ UNDER sub-
4 section (2)(a) or section 7403(2)(a)(i), (ii), (iii), or (iv)
5 shall be imposed to run consecutively with any term of imprison-
6 ment imposed for the commission of another felony. An individual
7 subject to a mandatory term of imprisonment under subsection
8 (2)(a) or section 7403(2)(a)(i), (ii), (iii), or (iv) ~~shall~~ IS
9 not ~~be~~ eligible for probation, suspension of that sentence, or
10 parole during that mandatory term, except ~~and only~~ to the
11 extent that those provisions permit probation for life, and shall
12 not receive a reduction in that mandatory term of imprisonment by
13 disciplinary credits or any other type of sentence credit
14 reduction.

15 (4) The court may depart from the minimum term of imprison-
16 ment authorized under subsection (2)(a)(ii), (iii), or (iv) if
17 the court finds on the record that there are substantial and com-
18 pelling reasons to do so. In addition, if any of the following
19 apply, the court may depart from the minimum term of imprisonment
20 authorized under subsection (2)(a)(ii), (iii), or (iv) if the
21 individual has not previously been convicted of a felony or an
22 assaultive crime and has not been convicted of another felony or
23 assaultive crime arising from the same transaction as the viola-
24 tion of this section:

25 (a) The person is within the jurisdiction of the circuit
26 court under section 606 of the revised judicature act of 1961,

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1 1961 PA 236, MCL 600.606, or section 4 of chapter XIIA of THE
2 PROBATE CODE OF 1939, 1939 PA 288, MCL 712A.4.

3 (b) The person is being sentenced under section 18(1)(n) of
4 chapter XIIA of THE PROBATE CODE OF 1939, 1939 PA 288,
5 MCL 712A.18.

6 (5) As used in this section:

7 (a) "Assaultive crime" means a violation of ~~chapter XI~~
8 SECTIONS 81 TO 90 of the Michigan penal code, 1931 PA 328,
9 MCL 750.81 to 750.90.

10 (b) "Plant" means a marihuana plant that has produced coty-
11 ledons or a cutting of a marihuana plant that has produced
12 cotyledons.

13 SEC. 7401B. (1) A PERSON SHALL NOT DO ANY OF THE
14 FOLLOWING:

15 (A) OWN, POSSESS, OR USE A VEHICLE, BUILDING, STRUCTURE,
16 PLACE, OR AREA THAT HE OR SHE KNOWS OR HAS REASON TO KNOW IS TO BE
17 USED AS A LOCATION TO MANUFACTURE A CONTROLLED SUB-
18 STANCE IN VIOLATION OF SECTION 7401 OR A COUNTERFEIT SUBSTANCE OR
19 A CONTROLLED SUBSTANCE ANALOGUE IN VIOLATION OF SECTION 7402.

20 (B) OWN OR POSSESS ANY CHEMICAL OR ANY LABORATORY EQUIPMENT
21 THAT HE OR SHE KNOWS OR HAS REASON TO KNOW IS TO BE USED FOR THE
22 PURPOSE OF MANUFACTURING A CONTROLLED SUBSTANCE IN VIOLATION OF
23 SECTION 7401 OR A COUNTERFEIT SUBSTANCE OR A CONTROLLED SUBSTANCE
24 ANALOGUE IN VIOLATION OF SECTION 7402.

25 (C) PROVIDE ANY CHEMICAL OR LABORATORY EQUIPMENT TO ANOTHER
26 PERSON KNOWING OR HAVING REASON TO KNOW THAT THE OTHER PERSON
27 INTENDS TO USE THAT CHEMICAL OR LABORATORY EQUIPMENT FOR THE
PURPOSE OF MANUFACTURING A CONTROLLED SUBSTANCE IN VIOLATION OF

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1 SECTION 7401 OR A COUNTERFEIT SUBSTANCE OR A CONTROLLED SUBSTANCE
2 ANALOGUE IN VIOLATION OF SECTION 7402.

3 (2) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY
4 PUNISHABLE AS FOLLOWS:

5 (A) EXCEPT AS PROVIDED IN SUBDIVISIONS (B) TO (E), BY
6 IMPRISONMENT FOR NOT MORE THAN 10 YEARS OR A FINE OF NOT MORE
7 THAN \$100,000.00, OR BOTH.

8 (B) IF THE VIOLATION IS COMMITTED IN THE PRESENCE OF A
9 MINOR, BY IMPRISONMENT FOR NOT MORE THAN 20 YEARS OR A FINE OF
10 NOT MORE THAN \$100,000.00, OR BOTH.

11 (C) IF THE VIOLATION INVOLVES THE UNLAWFUL GENERATION,
12 TREATMENT, STORAGE, OR DISPOSAL OF A HAZARDOUS WASTE, BY IMPRIS-
13 ONMENT FOR NOT MORE THAN 20 YEARS OR A FINE OF NOT MORE THAN
14 \$100,000.00, OR BOTH.

15 (D) IF THE VIOLATION OCCURS WITHIN 500 FEET OF A RESIDENCE,
16 BUSINESS ESTABLISHMENT, SCHOOL PROPERTY, OR CHURCH OR OTHER HOUSE
17 OF WORSHIP, BY IMPRISONMENT FOR NOT MORE THAN 20 YEARS OR A FINE
18 OF NOT MORE THAN \$100,000.00, OR BOTH.

19 (E) IF THE VIOLATION INVOLVES THE POSSESSION, PLACEMENT, OR
20 USE OF A FIREARM OR ANY OTHER DEVICE DESIGNED OR INTENDED TO BE
21 USED TO INJURE ANOTHER PERSON, BY IMPRISONMENT FOR NOT MORE THAN
22 25 YEARS OR A FINE OF NOT MORE THAN \$100,000.00, OR BOTH.

23 (3) SUBSECTION (2)(A) TO (D) DO NOT APPLY TO A VIOLATION
24 INVOLVING THE MANUFACTURING OF MARIHUANA ONLY.

25 (4) THIS SECTION DOES NOT PROHIBIT THE PERSON FROM BEING
26 CHARGED WITH, CONVICTED OF, OR PUNISHED FOR ANY OTHER VIOLATION

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1 OF LAW COMMITTED BY THAT PERSON WHILE VIOLATING OR ATTEMPTING TO
2 VIOLATE THIS SECTION.

3 (5) A TERM OF IMPRISONMENT IMPOSED UNDER THIS SECTION MAY BE
4 SERVED CONSECUTIVELY TO ANY OTHER TERM OF IMPRISONMENT IMPOSED
5 FOR A VIOLATION OF LAW ARISING OUT OF THE SAME TRANSACTION.

6 (6) THE COURT MAY, AS A CONDITION OF SENTENCE, ORDER A
7 PERSON CONVICTED OF A VIOLATION PUNISHABLE UNDER SUBSECTION
8 (2)(C) TO PAY RESPONSE ACTIVITY COSTS ARISING OUT OF THE
9 VIOLATION.

10 (7) AS USED IN THIS SECTION:

11 (A) "HAZARDOUS WASTE" MEANS THAT TERM AS DEFINED IN SECTION
12 11103 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT,
13 1994 PA 451, MCL 324.11103.

14 (B) "LABORATORY EQUIPMENT" MEANS ANY EQUIPMENT, DEVICE, OR
15 CONTAINER USED OR INTENDED TO BE USED IN THE PROCESS OF MANUFAC-
16 TURING A CONTROLLED SUBSTANCE, COUNTERFEIT SUBSTANCE, OR CON-
17 TROLLED SUBSTANCE ANALOGUE.

18 (C) "MINOR" MEANS AN INDIVIDUAL LESS THAN 18 YEARS OF AGE.

19 (D) "RESPONSE ACTIVITY COSTS" MEANS THAT TERM AS DEFINED IN
20 SECTION 20101 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTEC-
21 TION ACT, 1994 PA 451, MCL 324.20101.

22 (E) "SCHOOL PROPERTY" MEANS THAT TERM AS DEFINED IN SECTION
23 7410.

24 (F) "VEHICLE" MEANS THAT TERM AS DEFINED IN SECTION 79 OF
25 THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.79.

26 Sec. 7402. (1) Except as authorized by this article, a
27 person shall not create, manufacture, deliver, or possess with

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1 intent to deliver a counterfeit substance or a controlled
2 substance analogue intended for human consumption. This section
3 does not apply to a person who manufactures or distributes a sub-
4 stance in conformance with the provisions of an approved new drug
5 application or an exemption for investigational use within the
6 meaning of section 505 of the federal food, drug, and cosmetic
7 act, 21 U.S.C. 355. For purposes of this section, section 505 of
8 the federal food, drug, and cosmetic act shall be applicable to
9 the introduction or delivery for introduction of any new drug
10 into intrastate, interstate, or foreign commerce.

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

12 (a) A counterfeit substance classified in schedule 1 or 2
13 which is either a narcotic drug or described in section
14 7214(a)(iv) OR (C)(ii), is guilty of a felony, punishable by
15 imprisonment for not more than 10 years, or a fine of not more
16 than \$10,000.00, or both.

17 (b) Any other counterfeit substance classified in schedule
18 1, 2, or 3, is guilty of a felony, punishable by imprisonment for
19 not more than 5 years, or a fine of not more than \$5,000.00, or
20 both.

21 (c) A counterfeit substance classified in schedule 4, is
22 guilty of a felony, punishable by imprisonment for not more than
23 4 years, or a fine of not more than \$2,000.00, or both.

24 (d) A counterfeit substance classified in schedule 5, is
25 guilty of a felony, punishable by imprisonment for not more than
26 2 years, or a fine of not more than \$2,000.00, or both.

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1 (e) A controlled substance analogue, is guilty of a felony,
2 punishable by imprisonment for not more than 15 years, or a fine
3 of not more than \$250,000.00, or both.

4 Sec. 7403. (1) A person shall not knowingly or intention-
5 ally possess a controlled substance, a controlled substance anal-
6 ogue, or an official prescription form or a prescription form
7 unless the controlled substance, controlled substance analogue,
8 official prescription form, or prescription form was obtained
9 directly from, or pursuant to, a valid prescription or order of a
10 practitioner while acting in the course of the practitioner's
11 professional practice, or except as otherwise authorized by this
12 article.

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

14 (a) A controlled substance classified in schedule 1 or 2
15 that is a narcotic drug or a drug described in section
16 7214(a)(iv) OR (C)(ii), and:

17 (i) Which is in an amount of 650 grams or more of any mix-
18 ture containing that substance is guilty of a felony and shall be
19 imprisoned for life except as otherwise provided in this
20 subparagraph. A person convicted of violating this subparagraph
21 may be punished as provided by law by imposing a sentence of
22 imprisonment for any term of years but not less than 25 years if
23 any of the following apply:

24 (A) The person is within the jurisdiction of the circuit
25 court ~~or recorder's court of the city of Detroit~~ under
26 section 606 of the revised judicature act of 1961, ~~Act No. 236~~
27 ~~of the Public Acts of 1961, being section 600.606 of the Michigan~~

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1 ~~Compiled Laws~~ 1961 PA 236, MCL 600.606, OR section 4 of chapter
2 XIIIA of ~~Act No. 288 of the Public Acts of 1939, being~~
3 ~~section 712A.4 of the Michigan Compiled Laws, or~~
4 ~~section 10a(1)(c) of Act No. 369 of the Public Acts of 1919,~~
5 ~~being section 725.10a of the Michigan Compiled Laws~~ THE PROBATE
6 CODE OF 1939, 1939 PA 288, MCL 712A.4.

7 (B) The person is being sentenced under section 18(1)(n) of
8 chapter XIIIA of ~~Act No. 288 of the Public Acts of 1939, being~~
9 ~~section 712A.18 of the Michigan Compiled Laws~~ THE PROBATE CODE
10 OF 1939, 1939 PA 288, MCL 712A.18.

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

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

19 (iv) Which is in an amount of 25 grams or more, but less
20 than 50 grams of any mixture containing that substance is guilty
21 of a felony and shall be imprisoned for not less than 1 year and
22 not more than 4 years, and may be fined not more than \$25,000.00
23 or placed on probation for life.

24 (v) Which is in an amount less than 25 grams of any mixture
25 containing that substance is guilty of a felony punishable by
26 imprisonment for not more than 4 years or a fine of not more than
27 \$25,000.00, or both.

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1 (b) A controlled substance classified in schedule 1, 2, 3,
2 or 4, except a controlled substance for which a penalty is pre-
3 scribed in subdivision (a), (c), or (d), or a controlled sub-
4 stance analogue is guilty of a felony punishable by imprisonment
5 for not more than 2 years or a fine of not more than \$2,000.00,
6 or both.

7 (c) Lysergic acid diethylamide, peyote, mescaline, dimethyl-
8 tryptamine, psilocyn, psilocybin, or a controlled substance clas-
9 sified in schedule 5, is guilty of a misdemeanor punishable by
10 imprisonment for not more than 1 year or a fine of not more than
11 \$2,000.00, or both.

12 (d) Marihuana, is guilty of a misdemeanor punishable by
13 imprisonment for not more than 1 year or a fine of not more than
14 \$2,000.00, or both.

15 (e) An official prescription form, is guilty of a felony
16 punishable by imprisonment for not more than 1 year or a fine of
17 not more than \$2,000.00, or both.

18 (f) A prescription form other than an official prescription
19 form, is guilty of a misdemeanor punishable by imprisonment for
20 not more than 1 year or a fine of not more than \$1,000.00, or
21 both.

22 (3) The court may depart from the minimum term of imprison-
23 ment authorized under subsection (2)(a)(ii), (iii), or (iv) if
24 the court finds on the record that there are substantial and com-
25 pelling reasons to do so. In addition, if any of the following
26 apply, the court may depart from the minimum term of imprisonment
27 authorized under subsection (2)(a)(ii), (iii), or (iv) if the

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1 individual has not previously been convicted of a felony or an
2 assaultive crime and has not been convicted of another felony or
3 assaultive crime arising from the same transaction as the viola-
4 tion of this section:

5 (a) The person is within the jurisdiction of the circuit
6 court ~~or recorder's court of the city of Detroit~~ under
7 section 606 of the revised judicature act of 1961, ~~Act No. 236~~
8 of the Public Acts of 1961, being section 600.606 of the Michigan
9 ~~Compiled Laws~~ 1961 PA 236, MCL 600.606, OR section 4 of chapter
10 XIIIA of ~~Act No. 288 of the Public Acts of 1939~~, being
11 section 712A.4 of the Michigan Compiled Laws, or
12 section 10a(1)(c) of Act No. 369 of the Public Acts of 1919,
13 being section 725.10a of the Michigan Compiled Laws THE PROBATE
14 CODE OF 1939, 1939 PA 288, MCL 712A.4.

15 (b) The person is being sentenced under section 18(1)(n) of
16 chapter XIIIA of ~~Act No. 288 of the Public Acts of 1939~~, being
17 section 712A.18 of the Michigan Compiled Laws THE PROBATE CODE
18 OF 1939, 1939 PA 288, MCL 712A.18.

19 (4) As used in subsection (3), "assaultive crime" means a
20 violation of ~~chapter XI~~ SECTIONS 81 TO 90 of the Michigan penal
21 code, ~~Act No. 328 of the Public Acts of 1931~~, being sections
22 750.81 to 750.90 of the Michigan Compiled Laws 1931 PA 328,
23 MCL 750.81 TO 750.90.

24 Sec. 7404. (1) A person shall not use a controlled sub-
25 stance or controlled substance analogue unless the substance was
26 obtained directly from, or pursuant to, a valid prescription or
27 order of a practitioner while acting in the course of the

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1 practitioner's professional practice, or except as otherwise
2 authorized by this article.

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

4 (a) A controlled substance classified in schedule 1 or 2 is
5 a narcotic drug or a drug described in section 7214(a)(iv) OR
6 (C)(ii) is guilty of a misdemeanor punishable by imprisonment for
7 not more than 1 year, or a fine of not more than \$2,000.00, or
8 both.

9 (b) A controlled substance classified in schedule 1, 2, 3,
10 or 4, except a controlled substance for which a penalty is pre-
11 scribed in subdivision (a), (c), or (d), or a controlled sub-
12 stance analogue is guilty of a misdemeanor, punishable by impris-
13 onment for not more than 1 year, or a fine of not more than
14 \$1,000.00, or both.

15 (c) Lysergic acid diethylamide, peyote, mescaline, dimethyl-
16 tryptamine, psilocyn, psilocybin, or a controlled substance clas-
17 sified in schedule 5, is guilty of a misdemeanor, punishable by
18 imprisonment for not more than 6 months, or a fine of not more
19 than \$500.00, or both.

20 (d) Marihuana, is guilty of a misdemeanor, punishable by
21 imprisonment for not more than 90 days, or a fine of not more
22 than \$100.00, or both.

23 Sec. 7410. (1) Except as otherwise provided in
24 subsections (2) and (3), an individual 18 years of age or over
25 who violates section 7401(2)(a)(iv) by delivering or distributing
26 a controlled substance listed in schedule 1 or 2 that is either a
27 narcotic drug or described in section 7214(a)(iv) OR (C)(ii) to

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1 an individual under 18 years of age who is at least 3 years the
2 deliverer's or distributor's junior may be punished by the fine
3 authorized by section 7401(2)(a)(iv) or by a term of imprisonment
4 of not less than 1 year nor more than twice that authorized by
5 section 7401(2)(a)(iv), or both. An individual 18 years of age
6 or over who violates section 7401 by delivering or distributing
7 any other controlled substance listed in schedules 1 to 5 to an
8 individual under 18 years of age who is at least 3 years the
9 distributor's junior may be punished by the fine authorized by
10 section 7401(2)(b), (c), or (d), or by a term of imprisonment not
11 more than twice that authorized by section 7401(2)(b), (c), or
12 (d), or both.

13 (2) An individual 18 years of age or over who violates sec-
14 tion 7401(2)(a)(iv) by delivering a controlled substance
15 described in schedule 1 or 2 that is either a narcotic drug or
16 described in section 7214(a)(iv) OR (C)(ii) to another person on
17 or within 1,000 feet of school property shall be punished,
18 subject to subsection (5), by a term of imprisonment of not less
19 than 2 years or more than 3 times that authorized by section
20 7401(2)(a)(iv) and, in addition, may be punished by a fine of not
21 more than 3 times that authorized by section 7401(2)(a)(iv).

22 (3) An individual 18 years of age or over who violates sec-
23 tion 7401(2)(a)(iv) by possessing with intent to deliver to
24 another person on or within 1,000 feet of school property a con-
25 trolled substance described in schedule 1 or 2 that is either a
26 narcotic drug or described in section 7214(a)(iv) OR (C)(ii)
27 shall be punished, subject to subsection (5), by a term of

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1 imprisonment of not less than 2 years or more than twice that
2 authorized by section 7401(2)(a)(iv) and, in addition, may be
3 punished by a fine of not more than 3 times that authorized by
4 section 7401(2)(a)(iv).

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

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

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

20 (7) A person who distributes marihuana without remuneration
21 and not to further commercial distribution and who does not vio-
22 late subsection (1) is guilty of a misdemeanor punishable by
23 imprisonment for not more than 1 year or a fine of not more than
24 \$1,000.00, or both, unless the distribution is in accordance with
25 the federal law or the law of this state.

1 Sec. 7410a. (1) An individual 18 years of age or over who
2 does any of the following may be punished by a term of
3 imprisonment of not more than 2 years:

4 (a) Violates section 7401(2)(a)(iv) by delivering a con-
5 trolled substance described in schedule 1 or 2 that is either a
6 narcotic drug or described in section 7214(a)(iv) OR (C)(ii) to a
7 minor who is in a public park or private park or within 1,000
8 feet of a public park or private park.

9 (b) Violates section 7401(2)(a)(iv) by possessing with
10 intent to deliver a controlled substance described in schedule 1
11 or 2 that is either a narcotic drug or described in section
12 7214(a)(iv) OR (C)(ii) to a minor who is in a public park or pri-
13 vate park or within 1,000 feet of a public park or private park.

14 (c) Violates section 7403(2)(a)(v), (b), (c), or (d) by pos-
15 sessing a controlled substance in a public park or private park.

16 (2) The term of imprisonment authorized under subsection (1)
17 is in addition to the term of imprisonment authorized for the
18 violation of section 7401(2)(a)(iv) or section 7403(2)(a)(v),
19 (b), (c), or (d).

20 (3) As used in this section:

21 (a) "Private park" means real property owned or maintained
22 by a private individual or entity and that is open to the general
23 public or local residents for recreation or amusement.

24 (b) "Public park" means real property owned or maintained by
25 this state or a political subdivision of this state that is des-
26 ignated by this state or by that political subdivision as a
27 public park.

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