

HOUSE BILL No. 4038

January 22, 2007, Introduced by Reps. Lemmons, Virgil Smith and Leland and referred to the Committee on Judiciary.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 7212, 7214, 7403, and 7404 (MCL 333.7212, 333.7214, 333.7403, and 333.7404), sections 7212, 7403, and 7404 as amended by 2002 PA 710 and section 7214 as amended by 1982 PA 352, and by adding sections 7337, 7338, 7338a, and 7338b; and to repeal acts and parts of acts.

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

1 isomers, esters, ethers, and salts is possible within the
 2 specific chemical designation:

3	Acetylmethadol	Difenoxin	Noracymethadol
4	Allylprodine	Dimenoxadol	Norlevorphanol
5	Alpha-acetylmethadol	Dimepheptanol	Normethadone
6	Alphameprodine	Dimethylthiambutene	Norpipanone
7	Alphamethadol	Dioxaphetyl butyrate	Phenadoxone
8	Benzethidine	Dipipanone	Phenampromide
9	Betacetylmethadol	Ethylmethylthiambutene	Phenomorphan
10	Betameprodine	Etonitazene	Phenoperidine
11	Betamethadol	Etoxeridine	Piritramide
12	Betaprodine	Furethidine	Proheptazine
13	Clonitazene	Hydroxypethidine	Properidine
14	Dextromoramide	Ketobemidone	Propiram
15	Diampromide	Levomoramide	Racemoramide
16	Diethylthiambutene	Levophenacymorphan	Trimeperidine
17		Morpheridine	

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

22	Acetorphine	Drotebanol	Morphine-N-Oxide
23	Acetyldihydrocodeine	Etorphine	Myrophine
24	Benzylmorphine	Heroin	Nicocodeine
25	Codeine methylbromide	Hydromorphanol	Nicomorphine
26	Codeine-N-Oxide	Methyldesorphine	Normorphine
27	Cyprenorphine	Methyldihydromorphine	Pholcodine
28	Desomorphine	Morphine methylbromide	Thebacon

1 Dihydromorphine Morphine methylsulfonate

2 (c) Any material, compound, mixture, or preparation which
3 contains any quantity of the following hallucinogenic substances,
4 their salts, isomers, and salts of isomers, unless specifically
5 excepted, when the existence of these salts, isomers, and salts
6 of isomers is possible within the specific chemical designation:

7 2-Methylamino-1-phenylpropan-1-one

8 Some trade and other names:

9 Methcathinone

10 Cat

11 Ephedrone

12 3, 4-methylenedioxy amphetamine

13 5-methoxy-3, 4-methylenedioxy

14 amphetamine

15 3, 4, 5-trimethoxy amphetamine

16 Bufotenine

17 Some trade and other names:

18 3-(B-dimethylaminoethyl)-5 hydroxyindole

19 3-(2-dimethylaminoethyl)-5 indolol

20 N,N-dimethylserotonin; 5-hydroxy-N-dimethyltryptamine

21 Mappine

22 2, 5-Dimethoxyamphetamine

23 Some trade or other names:

24 2, 5-Dimethoxy-a-methylphenethylamine; 2,5-DMA

25 4-Bromo-2, 5-Dimethoxyamphetamine

26 Some trade or other names:

27 4-bromo-2, 5 dimethoxy-a-methylphenethylamine; 4-bromo

28 2,5-DMA

29 Diethyltryptamine

- 1 Some trade and other names:
2 N,N-Diethyltryptamine; DET
3 Dimethyltryptamine
4 Some trade or other names:
5 DMT
6 4-methyl-2, 5-dimethoxyamphetamine
7 Some trade and other names:
8 4-methyl-2, 5-dimethoxy- α -methyl-phenethylamine
9 DOM, STP
10 4-methoxyamphetamine
11 Some trade or other names:
12 4-methoxy- α -methylphenethylamine; paramethoxy amphetamine;
13 PMA
14 Ibogaine
15 Some trade and other names:
16 7-Ethyl-6,6a,7,8,9,10,12,13
17 Octahydro-2-methoxy-6,9-methano-5H-
18 pyrido (1, 2:1, 2 azepino 4, 5-b) indole
19 tabernanthe iboga
20 Lysergic acid diethylamide
21 Marihuana, except as otherwise provided in ~~subsection (2)~~
22 **SECTIONS 7337 TO 7338B**
23 Mecloqualone
24 Mescaline
25 Peyote
26 N-ethyl-3 piperidyl benzilate
27 N-methyl-3 piperidyl benzilate
28 Psilocybin
29 Psilocyn
30 Thiophene analog of phencyclidine
31 Some trade or other names:

1 1-(1-(2-thienyl)cyclohexyl) piperidine)
2 2-thienyl analog of phencyclidine; TCP

3 (d) ~~Except as provided in subsection (2), synthetic~~
4 **SYNTHETIC** equivalents of the substances contained in the plant,
5 or in the resinous extractives of cannabis and synthetic
6 substances, derivatives, and their isomers with similar chemical
7 structure or pharmacological activity, or both, such as the
8 following, are included in schedule 1:

9 (i) Δ^1 cis or trans tetrahydrocannabinol, and their optical
10 isomers.

11 (ii) Δ^6 cis or trans tetrahydrocannabinol, and their optical
12 isomers.

13 (iii) $\Delta^{3,4}$ cis or trans tetrahydrocannabinol, and their
14 optical isomers.

15 (e) Compounds of structures of substances referred to in
16 subdivision (d), regardless of numerical designation of atomic
17 positions, are included.

18 (f) Gamma-hydroxybutyrate and any isomer, salt, or salt of
19 isomer of gamma-hydroxybutyrate.

20 Some trade and other names:

21 Sodium oxybate

22 4-hydroxybutanoic acid monosodium salt

23 (g) 3,4-methylenedioxymethamphetamine.

24 Some trade and other names:

25 Ecstasy

26 MDMA

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~~
 4 ~~sections 7335 and 7336.~~

5 (2) ~~(3)~~ For purposes of subsection (1), "isomer" includes
 6 the optical, position, and geometric isomers.

7 Sec. 7214. The following controlled substances are included
 8 in schedule 2:

9 (a) Any of the following substances, except those narcotic
 10 drugs listed in other schedules, whether produced directly or
 11 indirectly by extraction from substances of vegetable origin, or
 12 independently by means of chemical synthesis, or by combination
 13 of extraction and chemical synthesis:

14 (i) Opium and opiate, and any salt, compound, derivative, or
 15 preparation of opium or opiate excluding nalaxone and its salts,
 16 and excluding naltrexone and its salts, but including the
 17 following:

18 Raw opium	Etorphine hydrochloride
19 Opium extracts	Hydrocodone
20 Opium Fluid-extracts	Hydromorphone
21 Powdered opium	Metopon
22 Granulated opium	Morphine
23 Tincture of opium	Oxycodone
24 Codeine	Oxymorphone
25 Ethylmorphine	Thebaine

26 (ii) A salt, compound, derivative, or preparation thereof
 27 which is chemically equivalent to or identical with a substance

1 referred to in subdivision (a), except that these substances do
2 not include the isoquinoline alkaloids of opium.

3 (iii) Opium poppy, poppy straw, and concentrate of poppy
4 straw, the crude extract of poppy straw in either liquid, solid,
5 or powder form, which contains the phenanthrene alkaloids of the
6 opium poppy.

7 (iv) Coca leaves and any salt, compound, derivative, or
8 preparation thereof which is chemically equivalent to or
9 identical with any of these substances, except that the
10 substances do not include decocainized coca leaves or extraction
11 of coca leaves which extractions do not contain cocaine or
12 ecgonine. The substances include cocaine, its salts,
13 stereoisomers, and salts of stereoisomers when the existence of
14 the salts, stereoisomers, and salts of stereoisomers is possible
15 within the specific chemical designation.

16 (b) Any of the following opiates, including their isomers,
17 esters, ethers, salts, and salts of isomers, when the existence
18 of these isomers, esters, ethers, and salts is possible within
19 the specific chemical designation:

20	Alphaprodine	Fentanyl
21	Anileridine	Isomethadone
22	Bezitramide	Levomethorphan
23	Dihydrocodeine	Levorphanol
24	Diphenoxylate	Metazocine
25		
26		Methadone
27	Methadone-Intermediate, 4-cyano-2dimethylamino-4, 4-diphenyl	

1 butane

2 Moramide-Intermediate, 2-methyl-3-morpholino-1,

3 1-diphenylpropane-carboxylic acid

4

5 Pethidine

6 Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine

7 Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate

8 Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-

9 carboxylic acid

10

11 Phenazocine Racemethorphan

12 Piminodine Racemorphan

13 (c) Unless listed in another schedule, any material,
14 compound, mixture, or preparation which contains any quantity of
15 the following substances having potential for abuse associated
16 with a stimulant effect on the nervous system:

17 (i) Amphetamine, its salts, optical isomers, and salts of its
18 optical isomers.

19 (ii) Any substance which contains any quantity of
20 methamphetamine, including its salts, stereoisomers, and salts of
21 stereoisomers.

22 (iii) Phenmetrazine and its salts.

23 (iv) Methylphenidate and its salts.

24 (d) Any material, compound, mixture, or preparation,
25 including its salts, isomers, and salts of isomers when the
26 existence of the salts, isomers, and salts of isomers is possible
27 within the specific chemical designation as listed in schedule 2,
28 which contains any quantity of the following substances having a

1 potential for abuse associated with the depressant effect on the
2 central nervous system: methaqualone, amobarbital, pentobarbital,
3 or secobarbital; or, any compound, mixture, or preparation
4 containing amobarbital, secobarbital, pentobarbital, or any salt
5 thereof in combination with itself, with another, or with 1 or
6 more other controlled substances.

7 ~~—— (c) Marihuana, but only for use as provided in sections 7335~~
8 ~~and 7336.~~

9 SEC. 7337. AS USED IN THIS SECTION AND SECTIONS 7338, 7338A,
10 AND 7338B:

11 (A) "DEBILITATING MEDICAL CONDITION" MEANS 1 OR MORE OF THE
12 FOLLOWING:

13 (i) CANCER, GLAUCOMA, POSITIVE STATUS FOR HUMAN
14 IMMUNODEFICIENCY VIRUS, OR ACQUIRED IMMUNE DEFICIENCY SYNDROME.

15 (ii) A CHRONIC OR DEBILITATING DISEASE OR MEDICAL CONDITION
16 THAT PRODUCES 1 OR MORE OF THE FOLLOWING: CACHEXIA OR WASTING
17 SYNDROME; SEVERE PAIN; SEVERE NAUSEA; SEIZURES, INCLUDING THOSE
18 CHARACTERISTIC OF EPILEPSY; OR SEVERE AND PERSISTENT MUSCLE
19 SPASMS, INCLUDING THOSE CHARACTERISTIC OF MULTIPLE SCLEROSIS OR
20 CROHN'S DISEASE.

21 (iii) ANY OTHER SIMILAR MEDICAL CONDITION CERTIFIED BY RULES
22 PROMULGATED BY THE DEPARTMENT.

23 (B) "MEDICAL USE" MEANS THE ACQUISITION, POSSESSION,
24 CULTIVATION, USE, TRANSFER, OR TRANSPORTATION OF MARIHUANA OR
25 PARAPHERNALIA RELATING TO THE ADMINISTRATION OF MARIHUANA TO
26 ALLEVIATE THE SYMPTOMS OR EFFECTS OF A QUALIFYING PATIENT'S
27 DEBILITATING MEDICAL CONDITION.

1 (C) "PHYSICIAN" MEANS AN INDIVIDUAL LICENSED AS A PHYSICIAN
2 UNDER PART 170 OR AN OSTEOPATHIC PHYSICIAN UNDER PART 175.

3 (D) "PRIMARY CAREGIVER" MEANS A PERSON WHO IS AT LEAST 18
4 YEARS OLD AND WHO HAS AGREED TO UNDERTAKE RESPONSIBILITY FOR
5 MANAGING THE WELL-BEING OF A PERSON WITH RESPECT TO THE MEDICAL
6 USE OF MARIHUANA.

7 (E) "QUALIFYING PATIENT" MEANS A PERSON WHO HAS BEEN
8 DIAGNOSED BY A PHYSICIAN AS HAVING A DEBILITATING MEDICAL
9 CONDITION.

10 (F) "WRITTEN CERTIFICATION" MEANS A PHYSICIAN'S STATEMENT
11 UNDER SECTION 7338.

12 SEC. 7338. (1) A PHYSICIAN MAY ISSUE TO A PATIENT WHO IS
13 UNDER HIS OR HER CARE A WRITTEN STATEMENT CERTIFYING THAT, IN THE
14 PHYSICIAN'S PROFESSIONAL MEDICAL OPINION, THE PATIENT HAS A
15 DEBILITATING MEDICAL CONDITION AND THE POTENTIAL BENEFITS OF THE
16 MEDICAL USE OF MARIHUANA WOULD LIKELY OUTWEIGH THE RISK TO THE
17 PATIENT OF THE MEDICAL USE OF MARIHUANA. A WRITTEN CERTIFICATION
18 SHALL NOT BE ISSUED UNDER THIS SUBSECTION UNLESS THE PHYSICIAN
19 HAS MADE A FULL ASSESSMENT OF THE PATIENT'S MEDICAL HISTORY AND
20 MEDICAL CONDITION, IN THE COURSE OF A BONA FIDE PHYSICIAN-PATIENT
21 RELATIONSHIP.

22 (2) A PHYSICIAN SHALL NOT BE SUBJECT TO ARREST OR
23 PROSECUTION, PENALIZED IN ANY MANNER, OR DENIED ANY RIGHT OR
24 PRIVILEGE FOR PROVIDING WRITTEN CERTIFICATION UNDER SUBSECTION
25 (1).

26 (3) EXCEPT AS PROVIDED IN SECTION 7338B, A QUALIFYING
27 PATIENT WHO HAS IN HIS OR HER POSSESSION A WRITTEN CERTIFICATION

1 IS NOT SUBJECT TO ARREST, PROSECUTION, OR OTHER PENALTY FOR THE
2 MEDICAL USE OF MARIHUANA, UNLESS THE AMOUNT OF MARIHUANA
3 POSSESSED BY THE QUALIFIED PATIENT AND HIS OR HER PRIMARY
4 CAREGIVERS EXCEEDS THE AMOUNT REASONABLY NECESSARY TO ENSURE THE
5 UNINTERRUPTED AVAILABILITY OF MARIHUANA FOR PURPOSES OF
6 ALLEVIATING THE SYMPTOMS OR EFFECTS OF THE QUALIFYING PATIENT'S
7 DEBILITATING MEDICAL CONDITION OR ITS TREATMENT. FOR PURPOSES OF
8 THIS SUBSECTION, THERE IS A REBUTTABLE PRESUMPTION THAT THE
9 POSSESSION OF 3 MATURE MARIHUANA PLANTS OR 4 IMMATURE MARIHUANA
10 PLANTS, OR 3 OUNCES OF DRIED LEAVES OR FLOWERS OF A MARIHUANA
11 PLANT, DOES NOT EXCEED THE REASONABLY NECESSARY AMOUNT ALLOWED
12 UNDER THIS SUBSECTION.

13 (4) SUBSECTION (3) DOES NOT APPLY TO A MINOR UNDER THE AGE
14 OF 18 YEARS, UNLESS ALL OF THE FOLLOWING APPLY:

15 (A) THE MINOR'S PHYSICIAN HAS EXPLAINED THE POTENTIAL RISKS
16 AND BENEFITS OF THE MEDICAL USE OF MARIHUANA TO THE MINOR AND TO
17 THE MINOR'S PARENT OR LEGAL GUARDIAN.

18 (B) THE MINOR'S PARENT OR LEGAL GUARDIAN OF THE MINOR
19 CONSENTS IN WRITING TO DO ALL OF THE FOLLOWING:

20 (i) ALLOW THE MINOR'S MEDICAL USE OF MARIHUANA.

21 (ii) SERVE AS THE MINOR'S PRIMARY CAREGIVER.

22 (iii) CONTROL THE ACQUISITION OF THE MARIHUANA, THE DOSAGE,
23 AND THE FREQUENCY OF THE MEDICAL USE OF MARIHUANA BY THE MINOR.

24 (5) IF THE ACQUISITION, POSSESSION, CULTIVATION,
25 TRANSPORTATION, OR ADMINISTRATION OF MARIHUANA BY A QUALIFYING
26 PATIENT IS NOT PRACTICABLE, THE LEGAL PROTECTIONS ESTABLISHED BY
27 THIS SECTION FOR A QUALIFYING PATIENT EXTEND TO THE QUALIFYING

1 PATIENT'S PRIMARY CAREGIVERS, IF THE PRIMARY CAREGIVERS' ACTIONS
2 ARE NECESSARY FOR THE QUALIFYING PATIENT'S MEDICAL USE OF
3 MARIHUANA.

4 (6) ANY PROPERTY OR INTEREST IN PROPERTY THAT IS POSSESSED,
5 OWNED, OR USED IN CONNECTION WITH THE MEDICAL USE OF MARIHUANA
6 SHALL NOT BE HARMED, NEGLECTED, INJURED, OR DESTROYED WHILE IN
7 THE POSSESSION OF STATE OR LOCAL LAW ENFORCEMENT OFFICIALS,
8 EXCEPT THAT LAW ENFORCEMENT AGENCIES SEIZING LIVE PLANTS AS
9 EVIDENCE ARE NOT RESPONSIBLE FOR THE CARE AND MAINTENANCE OF
10 MARIHUANA PLANTS. ANY SUCH PROPERTY OR PROPERTY INTEREST SHALL
11 NOT BE FORFEITED UNDER STATE OR LOCAL LAW PROVIDING FOR THE
12 FORFEITURE OF PROPERTY OTHER THAN AS A SENTENCE IMPOSED AFTER
13 CONVICTION OF A CRIMINAL OFFENSE OR ENTRY OF A PLEA OF GUILTY TO
14 A CRIMINAL OFFENSE. MARIHUANA, MARIHUANA PARAPHERNALIA, OR OTHER
15 PROPERTY SEIZED FROM A QUALIFYING PATIENT OR PRIMARY CAREGIVERS
16 IN CONNECTION WITH THE CLAIMED MEDICAL USE OF MARIHUANA SHALL BE
17 RETURNED IMMEDIATELY UPON THE DETERMINATION BY A COURT OR
18 PROSECUTING ATTORNEY THAT THE QUALIFYING PATIENT OR PRIMARY
19 CAREGIVERS ARE ENTITLED TO THE PROTECTIONS OF THIS SECTION, AS
20 MAY BE EVIDENCED BY A DECISION NOT TO PROSECUTE, THE DISMISSAL OF
21 CHARGES, OR AN ACQUITTAL.

22 (7) A PERSON SHALL NOT BE SUBJECT TO ARREST OR PROSECUTION
23 FOR CONSTRUCTIVE POSSESSION, CONSPIRACY, OR ANY OTHER OFFENSE FOR
24 SIMPLY BEING IN THE PRESENCE OR VICINITY OF THE MEDICAL USE OF
25 MARIHUANA AS PERMITTED UNDER THIS SECTION.

26 SEC. 7338A. A PERSON AND A PERSON'S PRIMARY CAREGIVERS MAY
27 ASSERT THE MEDICAL USE OF MARIHUANA AS A DEFENSE TO ANY

1 PROSECUTION INVOLVING MARIHUANA. THIS DEFENSE SHALL BE PRESUMED
2 VALID IF THE EVIDENCE SHOWS BOTH OF THE FOLLOWING:

3 (A) THE PERSON'S MEDICAL RECORDS INDICATE, OR A PHYSICIAN
4 HAS STATED THAT, IN THE PHYSICIAN'S PROFESSIONAL OPINION, AFTER
5 HAVING COMPLETED A FULL ASSESSMENT OF THE PERSON'S MEDICAL
6 HISTORY AND CURRENT MEDICAL CONDITION MADE IN THE COURSE OF A
7 BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP, THE POTENTIAL BENEFITS
8 OF THE MEDICAL USE OF MARIHUANA WOULD LIKELY OUTWEIGH THE HEALTH
9 RISKS FOR THE PERSON.

10 (B) THE PERSON AND THE PERSON'S PRIMARY CAREGIVERS WERE
11 COLLECTIVELY IN POSSESSION OF A QUANTITY OF MARIHUANA THAT WAS
12 NOT MORE THAN WAS REASONABLY NECESSARY TO ENSURE THE
13 UNINTERRUPTED AVAILABILITY OF MARIHUANA FOR THE PURPOSE OF
14 ALLEVIATING THE SYMPTOMS OR EFFECTS OF THE PERSON'S MEDICAL
15 CONDITION.

16 SEC. 7338B. (1) THE AUTHORIZATION FOR THE MEDICAL USE OF
17 MARIHUANA UNDER SECTIONS 7337 TO 7337A DOES NOT APPLY TO ANY OF
18 THE FOLLOWING:

19 (A) THE MEDICAL USE OF MARIHUANA THAT ENDANGERS THE HEALTH
20 OR WELL-BEING OF ANOTHER PERSON, SUCH AS DRIVING OR OPERATING
21 HEAVY MACHINERY WHILE UNDER THE INFLUENCE OF MARIHUANA.

22 (B) THE SMOKING OF MARIHUANA IN ANY OF THE FOLLOWING PLACES:

23 (i) A SCHOOL BUS, PUBLIC BUS, OR OTHER PUBLIC VEHICLE.

24 (ii) THE WORKPLACE OF ONE'S EMPLOYMENT.

25 (iii) ANY SCHOOL GROUNDS.

26 (iv) ANY CORRECTIONAL FACILITY.

27 (v) ANY PUBLIC PARK, PUBLIC BEACH, PUBLIC RECREATION CENTER,

1 OR YOUTH CENTER.

2 (C) THE USE OF MARIHUANA BY A QUALIFYING PATIENT, PRIMARY
3 CAREGIVER, OR ANY OTHER PERSON FOR PURPOSES OTHER THAN MEDICAL
4 USE PERMITTED BY SECTIONS 7337 TO 7337A.

5 (2) A PERSON SHALL NOT FRAUDULENTLY REPRESENT TO A LAW
6 ENFORCEMENT OFFICIAL ANY FACT OR CIRCUMSTANCE RELATING TO THE
7 MEDICAL USE OF MARIHUANA TO AVOID ARREST OR PROSECUTION. A PERSON
8 WHO VIOLATES THIS SUBSECTION IS GUILTY OF A MISDEMEANOR
9 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 30 DAYS OR A FINE OF
10 NOT MORE THAN \$500.00, OR BOTH.

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

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

20 (a) A controlled substance classified in schedule 1 or 2
21 that is a narcotic drug or a drug described in section
22 7214(a)(iv), and:

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

27 (ii) Which is in an amount of 450 grams or more, but less

1 than 1,000 grams, of any mixture containing that substance is
2 guilty of a felony punishable by imprisonment for not more than
3 30 years or a fine of not more than \$500,000.00, or both.

4 (iii) Which is in an amount of 50 grams or more, but less than
5 450 grams, of any mixture containing that substance is guilty of
6 a felony punishable by imprisonment for not more than 20 years or
7 a fine of not more than \$250,000.00, or both.

8 (iv) Which is in an amount of 25 grams or more, but less than
9 50 grams of any mixture containing that substance is guilty of a
10 felony punishable by imprisonment for not more than 4 years or a
11 fine of not more than \$25,000.00, or both.

12 (v) Which is in an amount less than 25 grams of any mixture
13 containing that substance is guilty of a felony punishable by
14 imprisonment for not more than 4 years or a fine of not more than
15 \$25,000.00, or both.

16 (b) Either of the following:

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

20 (ii) A controlled substance classified in schedule 1, 2, 3,
21 or 4, except a controlled substance for which a penalty is
22 prescribed in subdivision (a), (b)(i), (c), or (d), or a
23 controlled substance analogue is guilty of a felony punishable by
24 imprisonment for not more than 2 years or a fine of not more than
25 \$2,000.00, or both.

26 (c) Lysergic acid diethylamide, peyote, mescaline,
27 dimethyltryptamine, psilocyn, psilocybin, or a controlled

1 substance classified in schedule 5 is guilty of a misdemeanor
2 punishable by imprisonment for not more than 1 year or a fine of
3 not more than \$2,000.00, or both.

4 (d) Marihuana is guilty of a misdemeanor punishable by
5 imprisonment for not more than 1 year or a fine of not more than
6 \$2,000.00, or both.

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

10 (3) If an individual was sentenced to lifetime probation
11 under subsection (2) (a) (iv) before ~~the effective date of the~~
12 ~~amendatory act that added this subsection~~ **APRIL 1, 2003** and the
13 individual has served 5 or more years of that probationary
14 period, the probation officer for that individual may recommend
15 to the court that the court discharge the individual from
16 probation. If an individual's probation officer does not
17 recommend discharge as provided in this subsection, with notice
18 to the prosecutor, the individual may petition the court seeking
19 resentencing under the court rules. The court may discharge an
20 individual from probation as provided in this subsection. An
21 individual may file more than 1 motion seeking resentencing under
22 this subsection.

23 **(4) THIS SECTION DOES NOT APPLY TO THE MEDICAL USE OF**
24 **MARIHUANA ALLOWED UNDER SECTIONS 7337 TO 7338B.**

25 Sec. 7404. (1) A person shall not use a controlled substance
26 or controlled substance analogue unless the substance was
27 obtained directly from, or pursuant to, a valid prescription or

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

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

5 (a) A controlled substance classified in schedule 1 or 2 as
6 a narcotic drug or a drug described in section 7212(1)(g) or
7 7214(a)(iv) or (c)(ii) is guilty of a misdemeanor punishable by
8 imprisonment for not more than 1 year or a fine of not more than
9 \$2,000.00, or both.

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

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

21 (d) Marihuana, is guilty of a misdemeanor punishable by
22 imprisonment for not more than 90 days or a fine of not more than
23 \$100.00, or both.

24 **(3) THIS SECTION DOES NOT APPLY TO THE MEDICAL USE OF**
25 **MARIHUANA ALLOWED UNDER SECTIONS 7337 TO 7338B.**

26 Enacting section 1. Sections 7335 and 7336 of the public
27 health code, 1978 PA 368, MCL 333.7335 and 333.7336, are

1 repealed.