

# SENATE BILL No. 618

June 3, 2009, Introduced by Senators KUIPERS, VAN WOERKOM, GARCIA, JELINEK, CROPSEY and JANSEN and referred to the Committee on Judiciary.

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending sections 7212 and 7214 (MCL 333.7212 and 333.7214),  
section 7212 as amended by 2002 PA 710 and section 7214 as  
amended by 1982 PA 352, and by adding section 17790; 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

1 ethers, unless specifically excepted, when the existence of these  
 2 isomers, esters, ethers, and salts is possible within the  
 3 specific chemical designation:

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

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

23 Acetorphine	Drotebanol	Morphine-N-Oxide
24 Acetyldihydrocodeine	Etorphine	Myrophine
25 Benzylmorphine	Heroin	Nicocodeine
26 Codeine methylbromide	Hydromorphanol	Nicomorphine

1	Codeine-N-Oxide	Methyldesorphine	Normorphine
2	Cyprenorphine	Methyldihydromorphine	Pholcodine
3	Desomorphine	Morphine methylbromide	Thebacon
4	Dihydromorphine	Morphine methylsulfonate	

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

10 2-Methylamino-1-phenylpropan-1-one

11 Some trade and other names:

12 Methcathinone

13 Cat

14 Ephedrone

15 3, 4-methylenedioxy amphetamine

16 5-methoxy-3, 4-methylenedioxy

17 amphetamine

18 3, 4, 5-trimethoxy amphetamine

19 Bufotenine

20 Some trade and other names:

21 3-(B-dimethylaminoethyl)-5 hydroxyindole

22 3-(2-dimethylaminoethyl)-5 indolol

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

24 Mappine

25 2, 5-Dimethoxyamphetamine

26 Some trade or other names:

27 2, 5-Dimethoxy-a-methylphenethylamine; 2,5-DMA

28 4-Bromo-2, 5-Dimethoxyamphetamine

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

1 Psilocyn

2 Thiophene analog of phencyclidine

3 Some trade or other names:

4 1-(1-(2-thienyl)cyclohexyl) piperidine)

5 2-thienyl analog of phencyclidine; TCP

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

12 (i)  $\triangle^1$  cis or trans tetrahydrocannabinol, and their optical  
13 isomers.

14 (ii)  $\triangle^6$  cis or trans tetrahydrocannabinol, and their optical  
15 isomers.

16 (iii)  $\triangle^{3,4}$ , cis or trans tetrahydrocannabinol, and their  
17 optical isomers.

18 (e) Compounds of structures of substances referred to in  
19 subdivision (d), regardless of numerical designation of atomic  
20 positions, are included.

21 (f) Gamma-hydroxybutyrate and any isomer, salt, or salt of  
22 isomer of gamma-hydroxybutyrate.

23 Some trade and other names:

24 Sodium oxybate

25 4-hydroxybutanoic acid monosodium salt

26 (g) 3,4-methylenedioxymethamphetamine.

1           Some trade and other names:

2           Ecstasy

3           MDMA

4           (2) ~~Marihuana~~ **SUBJECT TO RETURN 17790, MARIHUANA** and the  
 5 substances described in subsection (1) (d) and (e) in schedule 1  
 6 shall be regulated as provided in schedule 2, if they are  
 7 dispensed **FOR USE** in the manner provided in ~~sections 7335 and~~  
 8 ~~7336~~ **THE MICHIGAN MEDICAL MARIHUANA ACT, 2008 IL 1, MCL 333.26421**  
 9 **TO 333.26430.**

10           (3) For purposes of subsection (1), "isomer" includes the  
 11 optical, position, and geometric isomers.

12           Sec. 7214. The following controlled substances are included  
 13 in schedule 2:

14           (a) Any of the following substances, except those narcotic  
 15 drugs listed in other schedules, whether produced directly or  
 16 indirectly by extraction from substances of vegetable origin, or  
 17 independently by means of chemical synthesis, or by combination  
 18 of extraction and chemical synthesis:

19           (i) Opium and opiate, and any salt, compound, derivative, or  
 20 preparation of opium or opiate excluding nalaxone and its salts,  
 21 and excluding naltrexone and its salts, but including the  
 22 following:

23	Raw opium	Etorphine hydrochloride
24	Opium extracts	Hydrocodone
25	Opium Fluid-extracts	Hydromorphone

1	Powdered opium	Metopon
2	Granulated opium	Morphine
3	Tincture of opium	Oxycodone
4	Codeine	Oxymorphone
5	Ethylmorphine	Thebaine

6           (ii) A salt, compound, derivative, or preparation thereof  
7 which is chemically equivalent to or identical with a substance  
8 referred to in subdivision (a), except that these substances do  
9 not include the isoquinoline alkaloids of opium.

10           (iii) Opium poppy, poppy straw, and concentrate of poppy  
11 straw, the crude extract of poppy straw in either liquid, solid,  
12 or powder form, which contains the phenanthrene alkaloids of the  
13 opium poppy.

14           (iv) Coca leaves and any salt, compound, derivative, or  
15 preparation thereof which is chemically equivalent to or  
16 identical with any of these substances, except that the  
17 substances do not include decocainized coca leaves or extraction  
18 of coca leaves which extractions do not contain cocaine or  
19 ecgonine. The substances include cocaine, its salts,  
20 stereoisomers, and salts of stereoisomers when the existence of  
21 the salts, stereoisomers, and salts of stereoisomers is possible  
22 within the specific chemical designation.

23           (b) Any of the following opiates, including their isomers,  
24 esters, ethers, salts, and salts of isomers, when the existence  
25 of these isomers, esters, ethers, and salts is possible within  
26 the specific chemical designation:

1	Alphaprodine	Fentanyl
2	Anileridine	Isomethadone
3	Bezitramide	Levomethorphan
4	Dihydrocodeine	Levorphanol
5	Diphenoxylate	Metazocine
6		
7	Methadone	
8	Methadone-Intermediate, 4-cyano-2dimethylamino-4, 4-diphenyl butane	
9	Moramide-Intermediate, 2-methyl-3-morpholino-1,	
10	1-diphenylpropane-carboxylic acid	
11		
12	Pethidine	
13	Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine	
14	Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate	
15	Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-	
16	carboxylic acid	
17		
18	Phenazocine	Racemethorphan
19	Piminodine	Racemorphan

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

24 (i) Amphetamine, its salts, optical isomers, and salts of its  
 25 optical isomers.

26 (ii) Any substance which contains any quantity of  
 27 methamphetamine, including its salts, stereoisomers, and salts of  
 28 stereoisomers.

29 (iii) Phenmetrazine and its salts.



(iv) Methylphenidate and its salts.

(d) Any material, compound, mixture, or preparation, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation as listed in schedule 2, which contains any quantity of the following substances having a potential for abuse associated with the depressant effect on the central nervous system: methaqualone, amobarbital, pentobarbital, or secobarbital; or, any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt thereof in combination with itself, with another, or with 1 or more other controlled substances.

(e) ~~Marihuana~~, **SUBJECT TO SECTION 17790, MARIHUANA**, but only for use as provided in ~~sections 7335 and 7336~~ **THE MICHIGAN MEDICAL MARIHUANA ACT, 2008 IL 1, MCL 333.26421 TO 333.26430.**

**SEC. 17790. (1) MEDICAL MARIHUANA SHALL NOT BE GROWN, SOLD, DISTRIBUTED, POSSESSED, USED, TRANSPORTED, OR DELIVERED FOR USE UNDER THE MICHIGAN MEDICAL MARIHUANA ACT, 2008 IL 1, MCL 333.26421 TO 333.26430, UNLESS GROWN AND SOLD THROUGH A MEDICAL MARIHUANA GROWING FACILITY LICENSED UNDER THIS SECTION. A PHARMACIST SHALL NOT DISPENSE MEDICAL MARIHUANA AS A SCHEDULE 2 CONTROLLED SUBSTANCE UNDER THIS ACT UNLESS IT HAS BEEN GROWN AT A MEDICAL MARIHUANA GROWING FACILITY LICENSED UNDER THIS SECTION.**

**(2) A PERSON SHALL NOT OPERATE A MEDICAL MARIHUANA GROWING FACILITY IN THIS STATE UNTIL ISSUED A LICENSE UNDER THIS SECTION. NO MORE THAN 10 MEDICAL MARIHUANA GROWING FACILITIES SHALL BE ISSUED A LICENSE UNDER THIS SECTION DURING ANY 1-YEAR PERIOD. A**

1 LICENSE ISSUED UNDER THIS SECTION IS NOT ASSIGNABLE OR  
2 TRANSFERABLE.

3 (3) BEFORE A MEDICAL MARIHUANA GROWING FACILITY IS  
4 ESTABLISHED, THE OWNER OR OPERATOR OF THE PROPOSED FACILITY SHALL  
5 SUBMIT COMPLETE DRAWINGS TO THE DEPARTMENT FOR EXAMINATION AND  
6 APPROVAL. THE DRAWINGS SHALL BE DRAWN TO AN INDICATED SCALE, GIVE  
7 THE RELATIVE LOCATION OF THE MEDICAL MARIHUANA GROWING FACILITY,  
8 AND ILLUSTRATE ALL ROOMS, BUILDINGS, FACILITIES, AND EQUIPMENT TO  
9 BE USED IN THE MEDICAL MARIHUANA GROWING OPERATIONS.  
10 SPECIFICATIONS PRESCRIBED BY RULES PROMULGATED UNDER THIS SECTION  
11 SHALL ACCOMPANY THE DRAWINGS. WHEN THE CONSTRUCTION AND  
12 ESTABLISHMENT OF A PROPOSED MEDICAL MARIHUANA GROWING FACILITY  
13 ARE COMPLETED, THE OWNER OR OPERATOR OF THE PROPOSED FACILITY  
14 SHALL NOTIFY THE DEPARTMENT. THE DEPARTMENT SHALL INSPECT THE  
15 BUILDINGS AND PREMISES IN WHICH THE MEDICAL MARIHUANA GROWING  
16 FACILITY ARE CONTEMPLATED. IF THE BUILDING AND PREMISES CONFORM  
17 TO THE APPROVED PLANS SUBMITTED UNDER THIS SECTION OR RULES  
18 PROMULGATED UNDER THIS SECTION AND A LICENSE IS AVAILABLE TO BE  
19 ISSUED UNDER THIS SECTION, THE DEPARTMENT SHALL ISSUE TO THE  
20 APPLICANT A LICENSE TO CONDUCT A MEDICAL MARIHUANA GROWING  
21 FACILITY.

22 (4) THE DEPARTMENT MAY RECEIVE LICENSE APPLICATIONS FOR THE  
23 OPERATION OF A MEDICAL MARIHUANA GROWING FACILITY. THE DEPARTMENT  
24 SHALL ESTABLISH PROCEDURES TO FOLLOW IF MORE APPLICATIONS ARE  
25 RECEIVED THAN LICENSES AVAILABLE TO BE ISSUED UNDER THIS SECTION.  
26 UPON COMPLIANCE BY AN APPLICANT WITH THE REQUIREMENTS OF THIS  
27 SECTION AND RULES PROMULGATED UNDER THIS SECTION AND IF A LICENSE

1 IS AVAILABLE TO BE ISSUED UNDER THIS SECTION, THE DEPARTMENT  
2 SHALL ISSUE A MEDICAL MARIHUANA GROWING FACILITY LICENSE. THE  
3 DEPARTMENT SHALL ISSUE A LICENSE UNDER THIS SECTION FOR A PERIOD  
4 OF 1 YEAR. THE INITIAL APPLICATION AND ANNUAL LICENSE FEE FOR A  
5 MEDICAL MARIHUANA GROWING FACILITY LICENSE IS \$2,500.00.

6 (5) THE DEPARTMENT SHALL CONDUCT ANNUAL INSPECTIONS OF  
7 MEDICAL MARIHUANA GROWING FACILITIES TO ENSURE COMPLIANCE WITH  
8 THE REQUIREMENTS OF THIS SECTION AND RULES PROMULGATED UNDER THIS  
9 SECTION. THE DEPARTMENT MAY DELEGATE THE DUTY OF INSPECTIONS FOR  
10 APPROVAL OF MEDICAL MARIHUANA GROWING FACILITY LICENSES TO A  
11 LOCAL HEALTH DEPARTMENT THAT HAS THE TECHNICAL AND OTHER  
12 CAPABILITIES TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE IN  
13 THIS FIELD. THE DELEGATION SHALL NOT TAKE PLACE UNLESS THE  
14 DEPARTMENT HAS FIRST CONSULTED WITH AN AD HOC COMMITTEE THAT  
15 SHALL BE APPOINTED BY THE DEPARTMENT FOR THE PURPOSE OF ADVISING  
16 ON SUCH DELEGATION. MEMBERSHIP ON THE AD HOC COMMITTEE SHALL  
17 INCLUDE REPRESENTATIVES OF THE DEPARTMENT, LOCAL PUBLIC HEALTH  
18 AGENCIES, AND AN ASSOCIATION THAT REPRESENTS THE MEDICAL  
19 MARIHUANA GROWING FACILITIES THAT WOULD BE SUBJECT TO THE  
20 INSPECTIONS. THE STATE SHALL REIMBURSE EACH LOCAL HEALTH  
21 DEPARTMENT THE FULL AMOUNT OF THE FEES COLLECTED, AS  
22 REIMBURSEMENT FOR COST OF INSPECTION, ON VOUCHERS CERTIFIED BY  
23 THE LOCAL HEALTH OFFICER AND APPROVED BY THE DEPARTMENT.

24 (6) A LOCAL GOVERNMENTAL UNIT SHALL NOT ENACT OR ENFORCE AN  
25 ORDINANCE REGARDING MEDICAL MARIHUANA GROWING FACILITIES. EXCEPT  
26 AS OTHERWISE PROVIDED IN THIS SECTION, A MEDICAL MARIHUANA  
27 GROWING FACILITY THAT HAS BEEN ISSUED A LICENSE UNDER THIS

1 SECTION SHALL NOT BE SUBJECT TO ARREST, PROSECUTION, OR PENALTY  
2 IN ANY MANNER, OR DENIED ANY RIGHT OR PRIVILEGE, INCLUDING, BUT  
3 NOT LIMITED TO, CIVIL PENALTY OR DISCIPLINARY ACTION BY A  
4 BUSINESS OR OCCUPATIONAL OR PROFESSIONAL LICENSING BOARD OR  
5 BUREAU, FOR THE GROWING, TRANSPORTING, AND DELIVERY OF MEDICAL  
6 MARIHUANA FOR USE AS PRESCRIBED IN THE MICHIGAN MEDICAL MARIHUANA  
7 ACT, 2008 IL 1, MCL 333.26421 TO 333.26430.

8 (7) NOT LATER THAN THE THIRTIETH DAY BEFORE THE EXPIRATION  
9 OF AN ANNUAL LICENSE UNDER THIS SECTION, A PERSON OPERATING A  
10 LICENSED MEDICAL MARIHUANA GROWING FACILITY SHALL APPLY FOR  
11 LICENSE RENEWAL AND SHALL PAY A FEE AS PRESCRIBED BY SUBSECTION  
12 (4). A PERSON OPERATING A LICENSED MEDICAL MARIHUANA GROWING  
13 FACILITY WHO DOES NOT APPLY FOR LICENSE RENEWAL AS REQUIRED IN  
14 THIS SUBSECTION IS NOT ENTITLED TO LICENSE RENEWAL. UPON  
15 COMPLIANCE BY AN APPLICANT FOR LICENSE RENEWAL WITH THE  
16 REQUIREMENTS OF THIS SECTION AND RULES PROMULGATED UNDER THIS  
17 SECTION AND PAYMENT OF THE LICENSE RENEWAL FEE, THE DEPARTMENT  
18 SHALL ISSUE A RENEWAL LICENSE.

19 (8) THE DEPARTMENT SHALL ENFORCE THIS SECTION AND THE RULES  
20 PROMULGATED UNDER THIS SECTION. THE DEPARTMENT MAY SUSPEND,  
21 REVOKE, OR DENY A LICENSE OF A MEDICAL MARIHUANA GROWING FACILITY  
22 FOR A VIOLATION OF THIS SECTION OR A RULE PROMULGATED UNDER THIS  
23 SECTION.

24 (9) UPON A FINDING THAT AN EMERGENCY EXISTS REQUIRING  
25 IMMEDIATE ACTION TO PROTECT OCCUPATIONAL OR PUBLIC HEALTH AND  
26 SAFETY, THE DEPARTMENT MAY ISSUE AN ORDER, WITHOUT NOTICE OR  
27 HEARING, RECITING THE EXISTENCE OF THE EMERGENCY AND PROVIDING

1 FOR THE PROTECTION OF PUBLIC HEALTH AND SAFETY. NOTWITHSTANDING  
2 THIS SECTION OR THE ADMINISTRATIVE PROCEDURES ACT OF 1969, THE  
3 ORDER SHALL BE EFFECTIVE IMMEDIATELY. A PERSON TO WHOM THE ORDER  
4 IS DIRECTED SHALL COMPLY IMMEDIATELY BUT, ON APPLICATION TO THE  
5 DEPARTMENT, SHALL BE AFFORDED A HEARING WITHIN 15 DAYS. ON THE  
6 BASIS OF THE HEARING, THE EMERGENCY ORDER SHALL BE CONTINUED,  
7 MODIFIED, OR REVOKED NOT LATER THAN 30 DAYS AFTER THE HEARING.

8 (10) THE DEPARTMENT SHALL PROMULGATE RULES NECESSARY TO  
9 CARRY OUT THIS SECTION AND MAY APPOINT AN ADVISORY COMMITTEE TO  
10 ASSIST IN RULE DEVELOPMENT. THE RULES SHALL INCLUDE THE  
11 FOLLOWING:

12 (A) PLANS.

13 (B) DRAWINGS.

14 (C) SPECIFICATIONS.

15 (D) CONSTRUCTION.

16 (E) INSTALLATION OF EQUIPMENT STANDARDS.

17 (F) INSPECTIONS.

18 (G) OTHER MATTERS NECESSARY TO PROTECT THE HEALTH, SAFETY,  
19 AND WELFARE OF THE PUBLIC.

20 (11) THE OWNER, OPERATOR, OR AGENT OF A MEDICAL MARIHUANA  
21 GROWING FACILITY WHO FAILS TO COMPLY WITH THIS SECTION OR RULES  
22 PROMULGATED UNDER THIS SECTION WITHIN THE TIME SPECIFIED BY THE  
23 DEPARTMENT, OR WHO ESTABLISHES OR OPERATES A MEDICAL MARIHUANA  
24 GROWING FACILITY IN VIOLATION OF A DETAILED STATEMENT OF  
25 SPECIFICATIONS, PLANS, OR LICENSE APPROVED BY THE DEPARTMENT, IS  
26 GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE  
27 THAN 90 DAYS OR A FINE OF NOT MORE THAN \$1,000.00, OR BOTH, FOR

1 **EACH VIOLATION OR NONCOMPLIANCE.**

2 Enacting section 1. Sections 7335 and 7336 of the public  
3 health code, 1978 PA 368, MCL 333.7335 and 333.7336, are  
4 repealed.

5 Enacting section 2. This amendatory act does not take effect  
6 unless all of the following bills of the 95th Legislature are  
7 enacted into law:

8 (a) Senate Bill No. 616.

9

10 (b) Senate Bill No. 617.

11