

**HOUSE SUBSTITUTE FOR
SENATE BILL NO. 789**

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 7201, 7202, 7203, and 7204 (MCL 333.7201,
333.7202, 333.7203, and 333.7204), section 7204 as amended by 1994
PA 38.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7201. The administrator shall administer this article and
2 may add substances to, or delete or reschedule all substances
3 enumerated in the schedules in sections 7212, 7214, 7216, 7218, and
4 7220 ~~pursuant to the procedures of~~ **IN COMPLIANCE WITH** the
5 administrative procedures act of 1969.

6 Sec. 7202. **(1)** In making a determination regarding a
7 substance, the administrator shall consider all of the following:

8 (a) The actual or relative potential for abuse.

1 (b) The scientific evidence of its pharmacological effect, if
2 known.

3 (c) The state of current scientific knowledge regarding the
4 substance.

5 (d) The history and current pattern of abuse.

6 (e) The scope, duration, and significance of abuse.

7 (f) The risk to the public health.

8 (g) The potential of the substance to produce psychic or
9 physiological dependence liability.

10 (h) Whether the substance is an immediate precursor of a
11 substance already controlled under this article.

12 (2) IN MAKING A DETERMINATION REGARDING A SUBSTANCE THAT IS
13 THE SUBJECT OF AN EMERGENCY RULE, THE ADMINISTRATOR SHALL CONSIDER
14 ALL OF THE FACTORS SET FORTH IN SUBSECTION (1) AND SHALL ALSO
15 CONSIDER WHETHER THE ADMINISTRATOR HAS BEEN NOTIFIED THAT THE
16 SUBSTANCE CONSTITUTES AN IMMINENT DANGER AS DEFINED IN SECTION
17 2251.

18 Sec. 7203. (1) After considering the factors enumerated in
19 section ~~7202~~, ~~7202(1)~~, the administrator shall make findings with
20 respect ~~thereto~~ **TO THOSE FACTORS** and promulgate a rule controlling
21 the substance if the administrator finds the substance has a
22 potential for abuse.

23 (2) IF THE ADMINISTRATOR IS NOTIFIED IN WRITING BY THE
24 DIRECTOR OF THE DEPARTMENT OF COMMUNITY HEALTH UNDER SECTION 2251
25 THAT A SUBSTANCE CONSTITUTES AN IMMINENT DANGER AS DEFINED IN THAT
26 SECTION, THE ADMINISTRATOR SHALL CONSIDER THE FACTORS ENUMERATED IN
27 SECTION 7202(1) AND (2) AND MAKE FINDINGS WITH RESPECT TO THOSE

1 FACTORS AND MAY DO EITHER OR BOTH OF THE FOLLOWING:

2 (A) PROCEED UNDER SECTION 48(2) OF THE ADMINISTRATIVE
3 PROCEDURES ACT OF 1969, 1969 PA 306, MCL 28.248, TO SCHEDULE OR
4 RESCHEDULE THE SUBSTANCE AS A CONTROLLED SUBSTANCE BY EMERGENCY
5 RULE.

6 (B) INITIATE AND PURSUE THE PROCESS TO PROMULGATE A RULE
7 CONTROLLING THE SUBSTANCE.

8 (3) THE ADMINISTRATOR MAY EXTEND AN EMERGENCY RULE PROCESSED
9 UNDER SUBSECTION (2) (A) BY FILING A CERTIFICATE OF EXTENSION WITH
10 THE OFFICE OF SECRETARY OF STATE BEFORE THE EXPIRATION OF THE
11 EMERGENCY RULE AS PROVIDED IN SECTION 48(2) OF THE ADMINISTRATIVE
12 PROCEDURES ACT OF 1969.

13 (4) ~~(2)~~ If the administrator designates a substance as an
14 immediate precursor, a substance ~~which~~ **THAT** is a precursor of the
15 controlled precursor is not subject to control solely because it is
16 a precursor of the controlled precursor.

17 Sec. 7204. If a substance is designated, rescheduled, or
18 deleted as a controlled substance under federal law and notice of
19 that designation, rescheduling, or deletion is given to the
20 administrator, **THE SUBSTANCE SHALL BE SIMILARLY SCHEDULED UNDER**
21 **SECTION 7201 UNLESS** the administrator ~~shall hold~~ **HOLDS** a board
22 meeting within the expiration of 91 days after notice is received
23 to determine whether the substance should be similarly controlled
24 ~~pursuant to~~ **UNDER** section 7201. If the administrator decides not to
25 similarly control the substance, the administrator shall, within 91
26 days after that decision is made, publish the reasons for that
27 determination.

1 Enacting section 1. This amendatory act does not take effect
2 unless all of the following bills of the 96th Legislature are
3 enacted into law:

4 (a) House Bill No. 5338.

5 (b) House Bill No. 5714.