

**STATE OF MICHIGAN  
96TH LEGISLATURE  
REGULAR SESSION OF 2012**

**Introduced by Senators Jones, Schuitmaker, Kahn, Nofs, Casperson, Marleau and Pappageorge**

**ENROLLED SENATE BILL No. 789**

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," 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:*

Sec. 7201. The administrator shall administer this article and may add substances to, or delete or reschedule all substances enumerated in the schedules in sections 7212, 7214, 7216, 7218, and 7220 in compliance with the administrative procedures act of 1969.

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

- (a) The actual or relative potential for abuse.
- (b) The scientific evidence of its pharmacological effect, if known.
- (c) The state of current scientific knowledge regarding the substance.
- (d) The history and current pattern of abuse.
- (e) The scope, duration, and significance of abuse.
- (f) The risk to the public health.
- (g) The potential of the substance to produce psychic or physiological dependence liability.
- (h) Whether the substance is an immediate precursor of a substance already controlled under this article.

(2) In making a determination regarding a substance that is the subject of an emergency rule, the administrator shall consider all of the factors set forth in subsection (1) and shall also consider whether the administrator has been notified that the substance constitutes an imminent danger as defined in section 2251.

Sec. 7203. (1) After considering the factors enumerated in section 7202(1), the administrator shall make findings with respect to those factors and promulgate a rule controlling the substance if the administrator finds the substance has a potential for abuse.

(2) If the administrator is notified in writing by the director of the department of community health under section 2251 that a substance constitutes an imminent danger as defined in that section, the administrator shall consider the factors enumerated in section 7202(1) and (2) and make findings with respect to those factors and may do either or both of the following:

(a) Proceed under section 48(2) of the administrative procedures act of 1969, 1969 PA 306, MCL 28.248, to schedule or reschedule the substance as a controlled substance by emergency rule.

(b) Initiate and pursue the process to promulgate a rule controlling the substance.

(3) The administrator may extend an emergency rule processed under subsection (2)(a) by filing a certificate of extension with the office of secretary of state before the expiration of the emergency rule as provided in section 48(2) of the administrative procedures act of 1969.

(4) If the administrator designates a substance as an immediate precursor, a substance that is a precursor of the controlled precursor is not subject to control solely because it is a precursor of the controlled precursor.

Sec. 7204. If a substance is designated, rescheduled, or deleted as a controlled substance under federal law and notice of that designation, rescheduling, or deletion is given to the administrator, the substance shall be similarly scheduled under section 7201 unless the administrator holds a board meeting within the expiration of 91 days after notice is received to determine whether the substance should be similarly controlled under section 7201. If the administrator decides not to similarly control the substance, the administrator shall, within 91 days after that decision is made, publish the reasons for that determination.

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

- (a) House Bill No. 5338.
- (b) House Bill No. 5714.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Ray E. Randall

Clerk of the House of Representatives

Approved .....

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Governor