

**SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 4243**

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending section 7401 (MCL 333.7401), as amended by 2016 PA 548.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 7401. (1) Except as authorized by this article, a person  
2 shall not manufacture, create, deliver, or possess with intent to  
3 manufacture, create, or deliver a controlled substance, a  
4 prescription form, or a counterfeit prescription form. A  
5 practitioner licensed by the administrator under this article shall  
6 not dispense, prescribe, or administer a controlled substance for  
7 other than legitimate and professionally recognized therapeutic or  
8 scientific purposes or outside the scope of practice of the  
9 practitioner, licensee, or applicant.

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

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

4 (i) Which is in an amount of 1,000 grams or more of any mixture  
5 containing that substance is guilty of a felony punishable by  
6 imprisonment ~~for life or any term of years~~ or a fine, ~~of not more~~  
7 ~~than \$1,000,000.00,~~ or both, **as provided under subsection (5)**.

8 (ii) Which is in an amount of 450 grams or more, but less than  
9 1,000 grams, of any mixture containing that substance is guilty of  
10 a felony and punishable by imprisonment ~~for not more than 30 years~~  
11 or a fine, ~~of not more than \$500,000.00,~~ or both, **as provided under**  
12 **subsection (6)**.

13 (iii) Which is in an amount of 50 grams or more, but less than  
14 450 grams, of any mixture containing that substance is guilty of a  
15 felony punishable by imprisonment ~~for not more than 20 years~~ or a  
16 fine, ~~of not more than \$250,000.00,~~ or both, **as provided under**  
17 **subsection (7)**.

18 (iv) Which is in an amount less than 50 grams, of any mixture  
19 containing that substance is guilty of a felony punishable by  
20 imprisonment ~~for not more than 20 years~~ or a fine, ~~of not more than~~  
21 ~~\$25,000.00,~~ or both, **as provided under subsection (8)**.

22 (b) Either of the following:

23 (i) A substance described in section 7212(1) (h) or 7214(c) (ii)  
24 is guilty of a felony punishable by imprisonment for not more than  
25 20 years or a fine of not more than \$25,000.00, or both.

26 (ii) Any other controlled substance classified in schedule 1,  
27 2, or 3, except marihuana, ~~or~~ a substance listed in section  
28 7212(1) (d), **or a substance listed in subsections (5) to (8)**, is  
29 guilty of a felony punishable by imprisonment for not more than 7

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

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

5 (d) Marihuana, a mixture containing marihuana, or a substance  
6 listed in section 7212(1) (d) is guilty of a felony punishable as  
7 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 20  
16 plants, by imprisonment for not more than 4 years or a fine of not  
17 more than \$20,000.00, or both.

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

21 (f) A prescription form or a counterfeit prescription form is  
22 guilty of a felony punishable by imprisonment for not more than 7  
23 years or a fine of not more than \$5,000.00, or both.

24 (3) A term of imprisonment imposed under subsection (2) (a) may  
25 be imposed to run consecutively with any term of imprisonment  
26 imposed for the commission of another felony.

27 (4) If an individual was sentenced to lifetime probation under  
28 subsection (2) (a) (iv) as it existed before March 1, 2003 and the  
29 individual has served 5 or more years of that probationary period,

1 the probation officer for that individual may recommend to the  
2 court that the court discharge the individual from probation. If an  
3 individual's probation officer does not recommend discharge as  
4 provided in this subsection, with notice to the prosecutor, the  
5 individual may petition the court seeking resentencing under the  
6 court rules. The court may discharge an individual from probation  
7 as provided in this subsection. An individual may file more than 1  
8 motion seeking resentencing under this subsection.

9 (5) A person who violates this section as described in  
10 subsection (2) (a) (i) is subject to the following penalties:

11 (a) If the substance is either of the following, by  
12 imprisonment for life or any term of years or a fine of not more  
13 than \$1,000,000.00, or both:

14 (i) Heroin, fentanyl, carfentanil, or any derivative of heroin,  
15 fentanyl, or carfentanil.

16 (ii) An opiate other than those listed under subparagraph (i),  
17 or any derivative of an opiate other than those listed under  
18 subparagraph (i).

19 (b) If the substance is a substance that is not listed in  
20 subdivision (a), by imprisonment for not more than 30 years or a  
21 fine of not more than \$1,000,000.00, or both.

22 (6) A person who violates this section as described in  
23 subsection (2) (a) (ii) is subject to the following penalties:

24 (a) If the substance is either of the following, by  
25 imprisonment for not more than 30 years or a fine of not more than  
26 \$500,000.00, or both:

27 (i) Heroin, fentanyl, carfentanil, or any derivative of heroin,  
28 fentanyl, or carfentanil.

29 (ii) An opiate other than those listed under subparagraph (i),

1 or any derivative of an opiate other than those listed under  
2 subparagraph (i).

3 (b) If the substance is a substance that is not listed in  
4 subdivision (a), by imprisonment for not more than 20 years or a  
5 fine of not more than \$500,000.00, or both.

6 (7) A person who violates this section as described in  
7 subsection (2) (a) (iii) is subject to the following penalties:

8 (a) If the substance is heroin, fentanyl, carfentanil, or any  
9 derivative of heroin, fentanyl, or carfentanil, by imprisonment for  
10 not more than 20 years or a fine of not more than \$250,000.00, or  
11 both.

12 (b) If the substance is an opiate other than those listed  
13 under subdivision (a), or any derivative of an opiate other than  
14 those listed under subdivision (a), by imprisonment for not more  
15 than 20 years or a fine of not more than \$250,000.00, or both.

16 (c) If the substance is a substance that is not listed in  
17 subdivision (a) or (b), by imprisonment for not more than 20 years  
18 or a fine of not more than \$250,000.00, or both.

19 (8) A person who violates this section as described in  
20 subsection (2) (a) (iv) is subject to the following penalties:

21 (a) If the substance is heroin, fentanyl, carfentanil, or any  
22 derivative of heroin, fentanyl, or carfentanil, by imprisonment for  
23 not more than 20 years or a fine of not more than \$25,000.00, or  
24 both.

25 (b) If the substance is a substance that is not listed under  
26 subdivision (a), by imprisonment for not more than 10 years or a  
27 fine of not more than \$25,000.00, or both.

28 (9) ~~(5)~~—As used in this section, "plant" means a marijuana  
29 plant that has produced cotyledons or a cutting of a marijuana

1 plant that has produced cotyledons.

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

4 Enacting section 2. This amendatory act does not take effect  
5 unless House Bill No. 4244 of the 101st Legislature is enacted into  
6 law.