

HOUSE BILL NO. 4243

February 16, 2021, Introduced by Reps. Alexander, Bellino, Filler, Bezotte and Steenland and referred to the Committee on Rules and Competitiveness.

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

1 not dispense, prescribe, or administer a controlled substance for
2 other than legitimate and professionally recognized therapeutic or
3 scientific purposes or outside the scope of practice of the
4 practitioner, licensee, or applicant.

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

6 (a) ~~A~~ **Except as to a controlled substance classified in**
7 **schedule 1 or 2 listed under subdivision (g) or (h),** a controlled
8 substance classified in schedule 1 or 2 that is a narcotic drug or
9 a drug described in section 7214(a) (iv) and:

10 (i) Which is in an amount of 1,000 grams or more of any mixture
11 containing that substance is guilty of a felony punishable by
12 imprisonment for ~~life or any term of~~ **not more than 30** years or a
13 fine of not more than \$1,000,000.00, or both.

14 (ii) Which is in an amount of 450 grams or more, but less than
15 1,000 grams, of any mixture containing that substance is guilty of
16 a felony and punishable by imprisonment for not more than ~~30~~ **20**
17 years or a fine of not more than \$500,000.00, or both.

18 (iii) Which is in an amount of 50 grams or more, but less than
19 450 grams, of any mixture containing that substance is guilty of a
20 felony punishable by imprisonment for not more than 20 years or a
21 fine of not more than \$250,000.00, or both.

22 (iv) Which is in an amount less than 50 grams, of any mixture
23 containing that substance is guilty of a felony punishable by
24 imprisonment for not more than ~~20~~ **10** years or a fine of not more
25 than \$25,000.00, or both.

26 (b) Either of the following:

27 (i) A substance described in section 7212(1) (h) or 7214(c) (ii)
28 is guilty of a felony punishable by imprisonment for not more than
29 20 years or a fine of not more than \$25,000.00, or both.

1 (ii) Any other controlled substance classified in schedule 1,
2 2, or 3, except marihuana, ~~or~~ a substance listed in section
3 7212(1)(d), **or a substance listed in subdivision (g) or (h)**, is
4 guilty of a felony punishable by imprisonment for not more than 7
5 years or a fine of not more than \$10,000.00, or both.

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

9 (d) Marihuana, a mixture containing marihuana, or a substance
10 listed in section 7212(1)(d) is guilty of a felony punishable as
11 follows:

12 (i) If the amount is 45 kilograms or more, or 200 plants or
13 more, by imprisonment for not more than 15 years or a fine of not
14 more than \$10,000,000.00, or both.

15 (ii) If the amount is 5 kilograms or more but less than 45
16 kilograms, or 20 plants or more but fewer than 200 plants, by
17 imprisonment for not more than 7 years or a fine of not more than
18 \$500,000.00, or both.

19 (iii) If the amount is less than 5 kilograms or fewer than 20
20 plants, by imprisonment for not more than 4 years or a fine of not
21 more than \$20,000.00, or both.

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

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

28 **(g) Heroin, fentanyl, carfentanil, any derivative of heroin,**
29 **fentanyl, or carfentanil, a mixture of heroin, fentanyl, or**

1 carfentanil, or a mixture of any derivative of heroin, fentanyl, or
2 carfentanil and:

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

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

11 (iii) Which is in an amount of 50 grams or more, but less than
12 450 grams, of any mixture containing that substance is guilty of a
13 felony punishable by imprisonment for not more than 20 years or a
14 fine of not more than \$250,000.00, or both.

15 (iv) Which is in an amount less than 50 grams of any mixture
16 containing that substance is guilty of a felony punishable by
17 imprisonment for not more than 20 years or a fine of not more than
18 \$25,000.00, or both.

19 (h) An opiate other than those listed under subdivision (g)
20 classified in schedule 1 or 2, any mixture containing an opiate
21 other than those listed under subdivision (g) classified in
22 schedule 1 or 2, or any derivative of an opiate other than those
23 listed under subdivision (g) classified in schedule 1 or 2, and:

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

28 (ii) Which is in an amount of 450 grams or more, but less than
29 1,000 grams, of any mixture containing that substance is guilty of

1 a felony punishable by imprisonment for not more than 30 years or a
2 fine of not more than \$500,000.00, or both.

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

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

11 (3) A term of imprisonment imposed under subsection (2) (a),
12 (g), or (h) may be imposed to run consecutively with any term of
13 imprisonment imposed for the commission of another felony.

14 (4) If an individual was sentenced to lifetime probation under
15 subsection (2) (a) (iv) as it existed before March 1, 2003 and the
16 individual has served 5 or more years of that probationary period,
17 the probation officer for that individual may recommend to the
18 court that the court discharge the individual from probation. If an
19 individual's probation officer does not recommend discharge as
20 provided in this subsection, with notice to the prosecutor, the
21 individual may petition the court seeking resentencing under the
22 court rules. The court may discharge an individual from probation
23 as provided in this subsection. An individual may file more than 1
24 motion seeking resentencing under this subsection.

25 (5) As used in this section, "plant" means a marihuana plant
26 that has produced cotyledons or a cutting of a marihuana plant that
27 has produced cotyledons.

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

1 Enacting section 2. This amendatory act does not take effect
2 unless Senate Bill No. _____ or House Bill No. 4244 (request no.
3 01070'21 a) of the 101st Legislature is enacted into law.