

**SUBSTITUTE FOR
HOUSE BILL NO. 5137**

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

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

10 (ii) Which is in an amount of 450 grams or more, but less than
 11 1,000 grams, of any mixture containing that substance is guilty of
 12 a felony and punishable by imprisonment for not more than ~~30~~ **20**
 13 years or a fine of not more than \$500,000.00, or both.

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

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~~ **10** years or a fine of not more
 21 than \$25,000.00, or both.

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 subdivision (g) or (h),** 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 (g) **Heroin, fentanyl, carfentanil, any derivative of heroin,
25 fentanyl, or carfentanil, a mixture of heroin, fentanyl, or
26 carfentanil, or a mixture of any derivative of heroin, fentanyl, or
27 carfentanil and:**

28 (i) **Which is in an amount of 1,000 grams or more of any mixture
29 containing that substance is guilty of a felony punishable by**



1 imprisonment for life or any term of years or a fine of not more
2 than \$1,000,000.00, or both.

3 (ii) Which is in an amount of 450 grams or more, but less than
4 1,000 grams, of any mixture containing that substance is guilty of
5 a felony punishable by imprisonment for not more than 30 years or a
6 fine of not more than \$500,000.00, or both.

7 (iii) Which is in an amount of 50 grams or more, but less than
8 450 grams, of any mixture containing that substance is guilty of a
9 felony punishable by imprisonment for not more than 20 years or a
10 fine of not more than \$250,000.00, or both.

11 (iv) Which is in an amount less than 50 grams of any mixture
12 containing that substance is guilty of a felony punishable by
13 imprisonment for not more than 20 years or a fine of not more than
14 \$25,000.00, or both.

15 (h) An opiate other than those listed under subdivision (g)
16 classified in schedule 1 or 2, any mixture containing an opiate
17 other than those listed under subdivision (g) classified in
18 schedule 1 or 2, or any derivative of an opiate other than those
19 listed under subdivision (g) classified in schedule 1 or 2, and:

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

24 (ii) Which is in an amount of 450 grams or more, but less than
25 1,000 grams, of any mixture containing that substance is guilty of
26 a felony punishable by imprisonment for not more than 30 years or a
27 fine of not more than \$500,000.00, or both.

28 (iii) Which is in an amount of 50 grams or more, but less than
29 450 grams, of any mixture containing that substance is guilty of a



1 felony punishable by imprisonment for not more than 20 years or a
2 fine of not more than \$250,000.00, or both.

3 (iv) Which is in an amount less than 50 grams of any mixture
4 containing that substance is guilty of a felony punishable by
5 imprisonment for not more than 10 years or a fine of not more than
6 \$25,000.00, or both.

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

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

21 (5) As used in this section, "plant" means a marihuana plant
22 that has produced cotyledons or a cutting of a marihuana plant that
23 has produced cotyledons.

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

26 Enacting section 2. This amendatory act does not take effect
27 unless House Bill No. 5138 of the 100th Legislature is enacted into
28 law.

