

# HOUSE BILL NO. 5137

October 22, 2019, Introduced by Reps. Alexander, Tate, Manoogian, Brann, Kahle, Mueller, Markkanen, Slagh, Howell, Miller, Yaroch and Sabo and referred to the Committee on Judiciary.

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



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

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

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

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

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

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

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

25 (b) Either of the following:

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

29 (ii) Any other controlled substance classified in schedule 1,

2, or 3, except marihuana or a substance listed in section 7212(1)(d), is guilty of a felony punishable by imprisonment for not more than 7 years or a fine of not more than \$10,000.00, or both.

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

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

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

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

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

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

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

**(g) Heroin, fentanyl, or a mixture of heroin and fentanyl and:**

**(i) Which is in an amount of 1,000 grams or more of any mixture 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 and punishable by imprisonment for not more than 30 years  
6 or a 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 (3) A term of imprisonment imposed under subsection (2) (a) or  
16 (g) may be imposed to run consecutively with any term of  
17 imprisonment imposed for the commission of another felony.

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

29 (5) As used in this section, "plant" means a marihuana plant

1 that has produced cotyledons or a cutting of a marihuana plant that  
2 has produced cotyledons.

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

5 Enacting section 2. This amendatory act does not take effect  
6 unless Senate Bill No.\_\_\_\_ or House Bill No. 5138 (request no.  
7 04294'19) of the 100th Legislature is enacted into law.

