

PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978

***** 333.7404.amended THIS AMENDED SECTION IS EFFECTIVE JANUARY 4, 2017 *****

333.7404.amended Use of controlled substance or controlled substance analogue; violations; penalties; individuals exempt from violation; notification of parent, guardian, or custodian of minor; other criminal charges; definitions.

Sec. 7404. (1) A person shall not use a controlled substance or controlled substance analogue unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by this article.

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

(a) A controlled substance classified in schedule 1 or 2 as a narcotic drug or a drug described in section 7212(1)(h) or 7214(a)(iv) or (c)(ii) is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00, or both.

(b) A controlled substance classified in schedule 1, 2, 3, or 4, except a controlled substance for which a penalty is prescribed in subdivision (a), (c), or (d), or a controlled substance analogue, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(c) Lysergic acid diethylamide, peyote, mescaline, dimethyltryptamine, psilocyn, psilocybin, or a controlled substance classified in schedule 5 is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than \$500.00, or both.

(d) Marihuana, catha edulis, salvia divinorum, or a substance described in section 7212(1)(d) or (i) is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$100.00, or both.

(3) The following individuals are not in violation of this section:

(a) An individual who seeks medical assistance for himself or herself or who requires medical assistance and is presented for assistance by another individual if he or she is incapacitated because of a drug overdose or other perceived medical emergency arising from the use of a controlled substance or a controlled substance analogue that he or she possesses or possessed in an amount sufficient only for personal use and the evidence of his or her violation of this section is obtained as a result of the individual's seeking or being presented for medical assistance.

(b) An individual who in good faith attempts to procure medical assistance for another individual or who accompanies another individual who requires medical assistance for a drug overdose or other perceived medical emergency arising from the use of a controlled substance or a controlled substance analogue that he or she possesses or possessed in an amount sufficient only for personal use and the evidence of his or her violation of this section is obtained as a result of the individual's attempting to procure medical assistance for another individual or as a result of the individual's accompanying another individual who requires medical assistance to a health facility or agency.

(4) A health facility or agency shall develop a process for notification of the parent or parents, guardian, or custodian of a minor under the age of 18 who is not emancipated under 1968 PA 293, MCL 722.1 to 722.6, and who voluntarily presents himself or herself, or is presented by another individual if he or she is incapacitated, to a health facility or agency for emergency medical treatment as provided in subsection (3). A health facility or agency shall not provide notification to a parent or parents, guardian, or custodian under this subsection for nonemergency treatment without obtaining the minor's consent.

(5) The exemption from prosecution under this section provided in subsection (3) does not prevent the investigation, arrest, charging, or prosecution of an individual for any other violation of the laws of this state, or be grounds for suppression of evidence in the prosecution of any other criminal charges.

(6) As used in this section:

(a) "Drug overdose" means a condition including, but not limited to, extreme physical illness, decreased level of consciousness, respiratory depression, coma, mania, or death, that is the result of consumption or use of a controlled substance or a controlled substance analogue or a substance with which the controlled substance or controlled substance analogue was combined, or that a layperson would reasonably believe to be a drug overdose that requires medical assistance.

(b) "Seeks medical assistance" means reporting a drug overdose or other medical emergency to law enforcement, the 9-1-1 system, a poison control center, or a medical provider, or assisting someone in reporting a drug overdose or other medical emergency.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1994, Act 38, Eff. June 1, 1994;—Am. 2000, Act 314, Eff. Jan. 1, 2001;—Am. Rendered Thursday, December 8, 2016

2002, Act 710, Eff. Apr. 1, 2003;—Am. 2010, Act 169, Eff. Oct. 1, 2010;—Am. 2012, Act 183, Eff. July 1, 2012;—Am. 2015, Act 220, Eff. Mar. 15, 2016;—Am. 2016, Act 308, Eff. Jan. 4, 2017.

Popular name: Act 368