

HOUSE BILL No. 5799

April 30, 1992, Introduced by Rep. Dresch and referred to the Committee on Judiciary.

A bill to amend section 7403 of Act No. 368 of the Public Acts of 1978, entitled as amended

"Public health code,"

as amended by Act No. 143 of the Public Acts of 1989, being section 333.7403 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 7403 of Act No. 368 of the Public Acts
2 of 1978, as amended by Act No. 143 of the Public Acts of 1989,
3 being section 333.7403 of the Michigan Compiled Laws, is amended
4 to read as follows:

5 Sec. 7403. (1) A person shall not knowingly or intention-
6 ally possess a controlled substance, ~~or~~ A CONTROLLED SUBSTANCE
7 ANALOGUE, an official prescription form, or a prescription form
8 unless the controlled substance, CONTROLLED SUBSTANCE ANALOGUE,
9 official prescription form, or prescription form was obtained

1 directly from, or pursuant to, a valid prescription or order of a
2 practitioner while acting in the course of the practitioner's
3 professional practice, or except as otherwise authorized by this
4 article.

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

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

9 (i) Which is in an amount of 650 grams or more of any mix-
10 ture containing that controlled substance is guilty of a felony
11 and shall be imprisoned for life.

12 (ii) Which is in an amount of 225 grams or more, but less
13 than 650 grams, of any mixture containing that controlled sub-
14 stance is guilty of a felony and shall be imprisoned for not less
15 than 20 years nor more than 30 years.

16 (iii) Which is in an amount of 50 grams or more, but less
17 than 225 grams, of any mixture containing that controlled sub-
18 stance is guilty of a felony and shall be imprisoned for not less
19 than 10 years nor more than 20 years.

20 (iv) Which is in an amount of 25 grams or more, but less
21 than 50 grams of any mixture containing that controlled substance
22 is guilty of a felony, and shall be imprisoned for not less than
23 1 year and not more than 4 years, and may be fined not more than
24 \$25,000.00 or placed on probation for life.

25 (v) Which is in an amount less than 25 grams of any mixture
26 containing that controlled substance is guilty of a felony,

1 punishable by imprisonment for not more than 4 years or a fine of
2 not more than \$25,000.00, or both.

3 (b) A controlled substance classified in schedule 1, 2, 3,
4 or 4, except a controlled substance classified in schedule 1 for
5 which a penalty is prescribed in subdivision (a), (c), or (d), is
6 guilty of a felony, punishable by imprisonment for not more than
7 2 years, or a fine of not more than \$2,000.00, or both.

8 (c) Lysergic acid diethylamide, peyote, mescaline, dimethyl-
9 tryptamine, psilocyn, psilocybin, or a controlled substance clas-
10 sified in schedule 5, is guilty of a misdemeanor, punishable by
11 imprisonment for not more than 1 year, or a fine of not more than
12 \$1,000.00, or both.

13 (d) Marihuana, is guilty of a misdemeanor, punishable by
14 imprisonment for not more than 1 year, or a fine of not more than
15 \$1,000.00, or both.

16 (E) A CONTROLLED SUBSTANCE ANALOGUE, IS GUILTY OF A MISDE-
17 MEANOR, PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR, OR A
18 FINE OF NOT MORE THAN \$1,000.00, OR BOTH.

19 (F) ~~-(e)-~~ An official prescription form, is guilty of a
20 felony, punishable by imprisonment for not more than 1 year, or a
21 fine of not more than \$2,000.00, or both.

22 (G) ~~-(f)-~~ A prescription form other than an official pre-
23 scription form, is guilty of a misdemeanor, punishable by impris-
24 onment for not more than 1 year, or a fine of not more than
25 \$1,000.00, or both.

26 (3) The court may depart from the minimum term of
27 imprisonment authorized under subsection ~~-(2)-(ii)-~~ (2)(A)(ii),

1 (iii), or (iv) if the court finds on the record that there are
2 substantial and compelling reasons to do so.