

HOUSE BILL No. 5917

June 9, 1992, Introduced by Reps. Bartnik, Jamian, Mathieu, McBryde, Hoffman, Middaugh, Strand, Bodem, Jaye, London, Rocca, Gnodtke, Fitzgerald, Bender, Johnson, Horton, Nye, Oxender, Dolan, Brackenridge, Middleton, O'Connor, Goss, Bobier, Gernaat, Gilmer, Shugars, Bankes, DeLange, Willis Bullard, Martin, Van Singel, Munsell, Sikkema, Walberg and Porreca and referred to the Committee on Judiciary.

A bill to amend section 7413 of Act No. 368 of the Public Acts of 1978, entitled as amended

"Public health code,"

as amended by Act No. 144 of the Public Acts of 1988, being section 333.7413 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 7413 of Act No. 368 of the Public Acts
2 of 1978, as amended by Act No. 144 of the Public Acts of 1988,
3 being section 333.7413 of the Michigan Compiled Laws, is amended
4 to read as follows:

5 Sec. 7413. (1) An individual who was convicted previously
6 for a violation of any of the following offenses and is thereaf-
7 ter convicted of a second or subsequent violation of any of the
8 following offenses shall be imprisoned for life and shall not be

1 eligible for probation, suspension of sentence, or parole during
2 that mandatory term:

3 (a) A violation of section 7401(2)(a)(ii) or (iii).

4 (b) A violation of section 7403(2)(a)(ii) or (iii).

5 (c) Conspiracy to commit an offense proscribed by section
6 7401(2)(a)(ii) or (iii) or section 7403(2)(a)(ii) or (iii).

7 (2) Except as otherwise provided in subsections (1) and (3),
8 an individual convicted of a second or subsequent offense under
9 this article may be imprisoned for a term not more than twice the
10 term otherwise authorized or fined an amount not more than twice
11 that otherwise authorized, or both.

12 (3) An individual convicted of a second or subsequent
13 offense under section 7410(2) or (3) shall be punished, subject
14 to subsection ~~(4)~~ (5), by a term of imprisonment of not less
15 than 5 years nor more than twice that authorized under
16 section 7410(2) or (3) and, in addition, may be punished by a
17 fine of not more than 3 times that authorized by section 7410(2)
18 or (3); and shall not be eligible for probation or suspension of
19 sentence during the term of imprisonment.

20 (4) EXCEPT AS PROVIDED UNDER SUBSECTIONS (1) AND (3), A
21 PERSON WHO COMMITS 3 SEPARATE VIOLATIONS OF SECTION 7401 WITHIN A
22 1-YEAR PERIOD SHALL, UPON CONVICTION FOR THE LAST OUTSTANDING
23 VIOLATION, BE PUNISHED BY IMPRISONMENT FOR NOT LESS THAN 2 YEARS
24 NOR MORE THAN THE MAXIMUM TERM OF IMPRISONMENT THAT MAY BE
25 IMPOSED BY LAW FOR THE VIOLATION. THE APPLICABILITY OF THIS SUB-
26 SECTION SHALL BE DETERMINED BY THE DATES OF THE VIOLATIONS AND
27 NOT BY THE DATES OF THE CONVICTIONS.

1 (5) ~~-(4)-~~ The court may depart from the minimum term of
2 imprisonment authorized under subsection (3) if the court finds
3 on the record that there are substantial and compelling reasons
4 to do so.

5 (6) ~~-(5)-~~ For purposes of subsection (2), an offense is con-
6 sidered a second or subsequent offense, if, before conviction of
7 the offense, the offender has at any time been convicted under
8 this article or under any statute of the United States or of any
9 state relating to a narcotic drug, marihuana, depressant, stimu-
10 lant, or hallucinogenic drug.