



HOUSE BILL No. 4103

February 2, 1993, Introduced by Reps. Bodem, Bennane, Jamian, Kukuk, Dalman, Dolan, Gnodtke, Hammerstrom, McBryde, Stille, McNutt, Gernaat, McManus, Bandstra and Jaye and referred to the Committee on Judiciary.

A bill to amend sections 7104, 7204, 7212, 7401, 7402, 7403, and 7404 of Act No. 368 of the Public Acts of 1978, entitled as amended

"Public health code,"

sections 7104 and 7402 as amended by Act No. 60 of the Public Acts of 1988, section 7212 as amended by Act No. 352 of the Public Acts of 1982, and sections 7401 and 7403 as amended by Act No. 143 of the Public Acts of 1989, being sections 333.7104, 333.7204, 333.7212, 333.7401, 333.7402, 333.7403, and 333.7404 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 7104, 7204, 7212, 7401, 7402, 7403, and
2 7404 of Act No. 368 of the Public Acts of 1978, sections 7104 and
3 7402 as amended by Act No. 60 of the Public Acts of 1988,
4 section 7212 as amended by Act No. 352 of the Public Acts of

1 1982, and sections 7401 and 7403 as amended by Act No. 143 of the
 2 Public Acts of 1989, being sections 333.7104, 333.7204, 333.7212,
 3 333.7401, 333.7402, 333.7403, and 333.7404 of the Michigan
 4 Compiled Laws, are amended to read as follows:

5 Sec. 7104. (1) ~~"Bureau" means the drug enforcement admin-~~
 6 ~~istration, United States department of justice, or its successor~~
 7 ~~agency.~~ (2) "Controlled substance" means a drug, substance, or
 8 immediate precursor INCLUDED in schedules 1 to 5 of part 72, AND
 9 INCLUDES ANY DRUG, SUBSTANCE, OR IMMEDIATE PRECURSOR THE UNITED
 10 STATES ATTORNEY GENERAL CLASSIFIES AS A CONTROLLED SUBSTANCE PUR-
 11 SUANT TO SECTION 201 OF PART B OF TITLE II OF THE COMPREHENSIVE
 12 DRUG ABUSE PREVENTION AND CONTROL ACT OF 1970, PUBLIC LAW 91-513,
 13 21 U.S.C. 811.

14 (2) ~~(3)~~ "Controlled substance analogue" means a substance
 15 ~~other than a controlled substance that has a~~ THE chemical
 16 structure OF WHICH IS substantially similar to ~~that~~ THE CHEMI-
 17 CAL STRUCTURE of a controlled substance INCLUDED in schedule 1 or
 18 2 ~~or that was specifically designed to produce an effect sub-~~
 19 ~~stantially similar to that of a controlled substance in schedule~~
 20 ~~1 or 2. Controlled substance analogue includes, but is not~~
 21 ~~limited to, the following chemical classes: phenethylamines,~~
 22 ~~n-substituted piperidines, morphinans, ecogonines, quinazoli-~~
 23 ~~nones, substituted indoles, and arylcycloalkylamines.~~ AND THAT
 24 HAS A NARCOTIC, STIMULANT, DEPRESSANT, OR HALLUCINOGENIC EFFECT
 25 ON THE CENTRAL NERVOUS SYSTEM SUBSTANTIALLY SIMILAR TO THE NAR-
 26 COTIC, STIMULANT, DEPRESSANT, OR HALLUCINOGENIC EFFECT ON THE
 27 CENTRAL NERVOUS SYSTEM OF A CONTROLLED SUBSTANCE INCLUDED IN

1 SCHEDULE 1 OR 2 OR, WITH RESPECT TO A PARTICULAR INDIVIDUAL, THAT
2 THE INDIVIDUAL REPRESENTS OR INTENDS TO HAVE A NARCOTIC, STIMU-
3 LANT, DEPRESSANT, OR HALLUCINOGENIC EFFECT ON THE CENTRAL NERVOUS
4 SYSTEM SUBSTANTIALLY SIMILAR TO THE NARCOTIC, STIMULANT, DEPRES-
5 SANT, OR HALLUCINOGENIC EFFECT ON THE CENTRAL NERVOUS SYSTEM OF A
6 CONTROLLED SUBSTANCE INCLUDED IN SCHEDULE 1 OR 2. CONTROLLED
7 SUBSTANCE ANALOGUE DOES NOT INCLUDE ANY OF THE FOLLOWING:

8 (A) A CONTROLLED SUBSTANCE.

9 (B) A SUBSTANCE FOR WHICH THERE IS AN APPROVED NEW DRUG
10 APPLICATION.

11 (C) A SUBSTANCE WITH RESPECT TO WHICH AN EXEMPTION IS IN
12 EFFECT FOR INVESTIGATIONAL USE BY A PARTICULAR PERSON UNDER
13 SECTION 505 OF THE FEDERAL FOOD, DRUG AND COSMETIC ACT,
14 CHAPTER 675, 52 STAT. 1040, 21 U.S.C. 355, TO THE EXTENT CONDUCT
15 WITH RESPECT TO THE SUBSTANCE IS PURSUANT TO THE EXEMPTION.

16 (D) ANY SUBSTANCE TO THE EXTENT NOT INTENDED FOR HUMAN CON-
17 SUMPTION BEFORE AN EXEMPTION TAKES EFFECT WITH RESPECT TO THE
18 SUBSTANCE.

19 (3) ~~(4)~~ "Counterfeit prescription form" means a printed
20 form ~~which~~ THAT is the same or similar to a prescription form
21 or an official prescription form, and ~~which~~ THAT was manufac-
22 tured, printed, duplicated, forged, or altered without the knowl-
23 edge or permission of a licensed prescribing practitioner, or, in
24 the case of official prescription forms, the department of
25 ~~licensing and regulation~~ COMMERCE.

26 (4) ~~(5)~~ "Counterfeit substance" means a controlled
27 substance which, or the container or labeling of which, without

1 authorization, bears the trademark, trade name or other
2 identifying mark, imprint, number, or device, or any likeness
3 thereof, of a manufacturer, distributor, or dispenser other than
4 the person who in fact manufactured, distributed, or dispensed
5 the substance.

6 (5) ~~(6)~~ "Deleterious drug" means a drug, other than a pro-
7 prietary medicine, likely to be destructive to adult human life
8 in quantities of ~~60 grains~~ 3.888 GRAMS or less.

9 Sec. 7204. If a substance is designated, rescheduled, or
10 deleted as a controlled substance under federal law and notice
11 ~~thereof~~ OF THAT DESIGNATION, RESCHEDULING, OR DELETION is given
12 to the administrator, the administrator shall similarly control
13 the substance under this article after the expiration of 30 days
14 following publication in the federal register of ~~a final~~ AN
15 order designating a substance as a controlled substance or
16 rescheduling or deleting a substance, unless within that 30-day
17 period, the administrator objects to inclusion, rescheduling, or
18 deletion. ~~In that case~~ IF THE ADMINISTRATOR OBJECTS, the
19 administrator shall publish the reasons for objection and afford
20 all interested parties an opportunity to be heard. At the con-
21 clusion of the hearing, the administrator shall publish a deci-
22 sion, which shall be final unless altered by statute. Upon pub-
23 lication of the objection to inclusion, rescheduling, or deletion
24 under this article by the administrator, control under this arti-
25 cle is stayed until the administrator publishes the decision.

26 Sec. 7212. (1) The following controlled substances are
27 included in schedule 1:

(a) Any of the following opiates, including their isomers, esters, the ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, when the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

Acetylmethadol	Difenoxin	Noracymethadol
Allylprodine	Dimenoxadol	Norlevorphanol
Alpha-acetylmethadol	Dimepheptanol	Normethadone
Alphameprodine	Dimethylthiambutene	Norpipanone
Alphamethadol	Dioxaphetyl butyrate	Phenadoxone
Benzethidine	Dipipanone	Phenampromide
Betacetylmethadol	Ethylmethylthiambutene	Phenomorphane
Betameprodine	Etonitazene	Phenoperidine
Betamethadol	Etoxeridine	Piritramide
Betaprodine	Furethidine	Proheptazine
Clonitazene	Hydroxypethidine	Properidine
Dextromoramide	Ketobemidone	Propiram
Diampromide	Levomoramide	Racemoramide
Diethylthiambutene	Levophenacymorphan	Trimeperidine
	Morpheridine	

(b) Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, when the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

Acetorphine	Drotebanol	Morphine-N-Oxide
Acetyldihydrocodeine	Etorphine	Myrophine
Benzylmorphine	Heroin	Nicocodeine
Codeine methylbromide	Hydromorphanol	Nicomorphine
Codeine-N-Oxide	Methyldesorphine	Normorphine
Cyprenorphine	Methyldihydromorphine	Pholcodine
Desomorphine	Morphine methylbromide	Thebacon
Dihydromorphine	Morphine methylsulfonate	

(c) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, when the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- 1 2-(METHYLAMINO) PROPIOPHENONE
- 2 SOME TRADE AND OTHER NAMES:
- 3 METHCATHINONE
- 4 CAT
- 5 3, 4-methylenedioxy amphetamine
- 6 5-methoxy-3, 4-methylenedioxy
- 7 amphetamine
- 8 3, 4, 5-trimethoxy amphetamine
- 9 Bufotenine
- 10 Some trade and other names:
- 11 3-(B-dimethylaminoethyl)-5 hydroxyindole
- 12 3-(2-dimethylaminoethyl)-5 indolol
- 13 N,N-dimethylserotonin; 5-hydroxy-N-dimethyltryptamine
- 14 Mappine
- 15 2, 5-Dimethoxyamphetamine
- 16 Some trade or other names:
- 17 2, 5-Dimethoxy-a-methylphenethylamine; 2,5-DMA
- 18 4-Bromo-2, 5-Dimethoxyamphetamine
- 19 Some trade or other names:
- 20 4-bromo-2, 5 dimethoxy-a-methylphenethylamine; 4-bromo
- 21 2,5-DMA
- 22 Diethyltryptamine
- 23 Some trade and other names:
- 24 N,N-Diethyltryptamine; DET
- 25 Dimethyltryptamine
- 26 Some trade or other names:
- 27 DMT
- 28 4-methyl-2, 5-dimethoxyamphetamine
- 29 Some trade and other names:
- 30 4-methyl-2, 5-dimethoxy-a-methyl-phenethylamine
- 31 DOM, STP
- 32 4-methoxyamphetamine
- 33 Some trade or other names:
- 34 4-methoxy-a-methylphenethylamine; paramethoxy amphetamine;
- 35 PMA
- 36 Ibogaine
- 37 Some trade and other names:
- 38 7-Ethyl-6,6a,7,8,9,10,12,13
- 39 Octahydro-2-methoxy-6,9-methano-5H-
- 40 pyrido (1, 2:1, 2 azepino 4, 5-b) indole
- 41 tabernanthe iboga
- 42 Lysergic acid diethylamide
- 43 Marihuana, except as otherwise provided in subsection (2)
- 44 Mecloqualone
- 45 Mescaline
- 46 Peyote
- 47 N-ethyl-3 piperidyl benzilate
- 48 N-methyl-3 piperidyl benzilate
- 49 Psilocybin
- 50 Psilocyn
- 51 Thiophene analog of phencyclidine

Some trade or other names:

1-(1-(2-thienyl)cyclohexyl) piperidine)
2-thienyl analog of phencyclidine; TCP

(d) Except as provided in subsection (2), synthetic equivalents of the substances contained in the plant, or in the resinous extractives of cannabis and synthetic substances, derivatives, and their isomers with similar chemical structure or pharmacological activity, or both, such as the following, are included in schedule 1:

(i) Δ^1 cis or trans tetrahydrocannabinol, and their optical isomers.

(ii) Δ^6 cis or trans tetrahydrocannabinol, and their optical isomers.

(iii) Δ^1, Δ^6 cis or trans tetrahydrocannabinol, and their optical isomers.

(e) Compounds of structures of substances referred to in subdivision (d), regardless of numerical designation of atomic positions, are included.

(2) Marihuana and the substances described in subsection (1) (d) and (e) in schedule 1 shall be regulated as provided in schedule 2, if they are dispensed in the manner provided in sections 7335 and 7336.

(3). For purposes of subsection (1), "isomer" includes the optical, position, and geometric isomers.

Sec. 7401. (1) Except as authorized by this article, a person shall not manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance, a prescription form, an official prescription form, or a counterfeit

1 prescription form. A practitioner licensed by the administrator
2 under this article shall not dispense, prescribe, or administer a
3 controlled substance for other than legitimate and professionally
4 recognized therapeutic or scientific purposes or outside the
5 scope of practice of the 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
8 ~~which~~ THAT is ~~either~~ a narcotic drug or A DRUG described in
9 section 7214(a)(iv) OR SECTION 7214(C)(i) OR (ii), OR THAT IS a
10 controlled substance analogue or 2-(methylamino) propiophenone
11 and:

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

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

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

23 (iv) Which is in an amount less than 50 grams, of any mix-
24 ture containing that substance is guilty of a felony and shall be
25 imprisoned for not less than 1 year nor more than 20 years, and
26 may be fined not more than \$25,000.00, or placed on probation for
27 life.

1 (b) Any other controlled substances classified in schedule
2 1, 2, or 3, except marihuana, is guilty of a felony, punishable
3 by imprisonment for not more than 7 years, or a fine of not more
4 than \$5,000.00, or both.

5 (c) A substance classified in schedule 4 or marihuana, is
6 guilty of a felony, punishable by imprisonment for not more than
7 4 years, or a fine of not more than \$2,000.00, or both.

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

11 (e) An official prescription form or a counterfeit official
12 prescription form, is guilty of a felony, punishable by imprison-
13 ment for not more than 20 years, or a fine of not more than
14 \$25,000.00, or both.

15 (f) A prescription form or a counterfeit prescription form
16 other than an official prescription form or a counterfeit offi-
17 cial prescription form, is guilty of a felony, punishable by
18 imprisonment for not more than 7 years, or a fine of not more
19 than \$5,000.00, or both.

20 (3) A term of imprisonment imposed pursuant to subsection
21 (2)(a) or section 7403(2)(a)(i), (ii), (iii), or (iv) shall be
22 imposed to run consecutively with any term of imprisonment
23 imposed for the commission of another felony. An individual
24 subject to a mandatory term of imprisonment under subsection
25 (2)(a) or section 7403(2)(a)(i), (ii), (iii), or (iv) shall not
26 be eligible for probation, suspension of that sentence, or parole
27 during that mandatory term, except and only to the extent that

1 those provisions permit probation for life, and shall not receive
2 a reduction in that mandatory term of imprisonment by disci-
3 plinary credits or any other type of sentence credit reduction.

4 (4) The court may depart from the minimum term of imprison-
5 ment authorized under subsection (2)(a)(ii), (iii), or (iv) if
6 the court finds on the record that there are substantial and com-
7 pelling reasons to do so.

8 Sec. 7402. (1) Except as authorized by this article, a
9 person shall not create, MANUFACTURE, deliver, or possess with
10 intent to deliver a counterfeit substance or a controlled sub-
11 stance analogue intended for human consumption, OR POSSESS OR USE
12 A COUNTERFEIT SUBSTANCE OR CONTROLLED SUBSTANCE ANALOGUE INTENDED
13 FOR HUMAN CONSUMPTION. This section ~~shall~~ DOES not apply to a
14 person who manufactures or distributes a substance in conformance
15 with the provisions of an approved new drug application or an
16 exemption for investigational use within the meaning of
17 section 505 of the federal food, drug, and cosmetic act,
18 21 U.S.C. 355. For purposes of this section, section 505 of the
19 federal food, drug, and cosmetic act shall be applicable to the
20 introduction or delivery for introduction of any new drug into
21 intrastate, interstate, or foreign commerce.

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

23 ~~(a) A counterfeit substance classified in schedule 1 or 2~~
24 ~~which is either a narcotic drug or described in section~~
25 ~~7214(a)(iv), is guilty of a felony, punishable by imprisonment~~
26 ~~for not more than 10 years, or a fine of not more than~~
27 ~~\$10,000.00, or both.~~

1 ~~(b) Any other counterfeit substance classified in schedule~~
2 ~~1, 2, or 3, is guilty of a felony, punishable by imprisonment for~~
3 ~~not more than 5 years, or a fine of not more than \$5,000.00, or~~
4 ~~both.~~

5 ~~(c) A counterfeit substance classified in schedule 4, is~~
6 ~~guilty of a felony, punishable by imprisonment for not more than~~
7 ~~4 years, or a fine of not more than \$2,000.00, or both.~~

8 ~~(d) A counterfeit substance classified in schedule 5, is~~
9 ~~guilty of a felony, punishable by imprisonment for not more than~~
10 ~~2 years, or a fine of not more than \$2,000.00, or both.~~

11 ~~(e) A controlled substance analogue, is guilty of a felony,~~
12 ~~punishable by imprisonment for not more than 15 years, or a fine~~
13 ~~of not more than \$250,000.00, or both.~~

14 (2) A PERSON WHO VIOLATES THIS SECTION BY CREATING, MANUFAC-
15 TURING, DELIVERING, OR POSSESSING WITH INTENT TO DELIVER A COUN-
16 TERFEIT SUBSTANCE OR A CONTROLLED SUBSTANCE ANALOGUE IS GUILTY OF
17 A CRIME PUNISHABLE BY THE SAME PENALTY THAT IS PROVIDED IN
18 SECTION 7401 FOR A VIOLATION INVOLVING A CONTROLLED SUBSTANCE
19 HAVING A SUBSTANTIALLY SIMILAR CHEMICAL STRUCTURE AND THE SAME
20 AMOUNT OF MIXTURE.

21 (3) A PERSON WHO VIOLATES THIS SECTION BY POSSESSING A CON-
22 TROLLED SUBSTANCE ANALOGUE OR A COUNTERFEIT SUBSTANCE IS GUILTY
23 OF A CRIME PUNISHABLE BY THE SAME PENALTY THAT IS PROVIDED IN
24 SECTION 7403 FOR A VIOLATION INVOLVING A CONTROLLED SUBSTANCE
25 HAVING A SUBSTANTIALLY SIMILAR CHEMICAL STRUCTURE AND THE SAME
26 AMOUNT OF MIXTURE.

1 (4) A PERSON WHO VIOLATES THIS SECTION BY USING A CONTROLLED
2 SUBSTANCE ANALOGUE OR A COUNTERFEIT SUBSTANCE IS GUILTY OF A
3 CRIME PUNISHABLE BY THE SAME PENALTY THAT IS PROVIDED IN
4 SECTION 7404 FOR A VIOLATION INVOLVING A CONTROLLED SUBSTANCE
5 HAVING A SUBSTANTIALLY SIMILAR CHEMICAL STRUCTURE AND THE SAME
6 AMOUNT OF MIXTURE.

7 Sec. 7403. (1) A person shall not knowingly or intention-
8 ally possess a controlled substance or an official prescription
9 form or a prescription form unless the controlled substance,
10 official prescription form, or prescription form was obtained
11 directly from, or pursuant to, a valid prescription or order of a
12 practitioner while acting in the course of the practitioner's
13 professional practice, or except as otherwise authorized by this
14 article.

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

16 (a) A controlled substance classified in schedule 1 or 2
17 ~~which~~ THAT is ~~either~~ a narcotic drug or A DRUG described in
18 section 7214(a)(iv) OR SECTION 7214(C)(i) OR (ii), OR THAT IS a
19 controlled substance analogue or 2-(methylamino) propiophenone
20 and:

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

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

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

5 (iv) Which is in an amount of 25 grams or more, but less
6 than 50 grams of any mixture containing that controlled substance
7 is guilty of a felony, and shall be imprisoned for not less than
8 1 year and not more than 4 years, and may be fined not more than
9 \$25,000.00 or placed on probation for life.

10 (v) Which is in an amount less than 25 grams of any mixture
11 containing that controlled substance is guilty of a felony, pun-
12 ishable by imprisonment for not more than 4 years or a fine of
13 not more than \$25,000.00, or both.

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

20 (c) Lysergic acid diethylamide, peyote, mescaline, dimethyl-
21 tryptamine, psilocyn, psilocybin, or a controlled substance clas-
22 sified in schedule 5, is guilty of a misdemeanor, punishable by
23 imprisonment for not more than 1 year, or a fine of not more than
24 \$1,000.00, or both.

25 (d) Marihuana, is guilty of a misdemeanor, punishable by
26 imprisonment for not more than 1 year, or a fine of not more than
27 \$1,000.00, or both.

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

4 (f) A prescription form other than an official prescription
 5 form, is guilty of a misdemeanor, punishable by imprisonment for
 6 not more than 1 year, or a fine of not more than \$1,000.00, or
 7 both.

8 (3) The court may depart from the minimum term of imprison-
 9 ment authorized under subsection ~~(2)(ii)~~ (2)(A)(ii), (iii), or
 10 (iv) if the court finds on the record that there are substantial
 11 and compelling reasons to do so.

12 Sec. 7404. (1) A person shall not use a controlled sub-
 13 stance unless the substance was obtained directly from, or pursu-
 14 ant to, a valid prescription or order of a practitioner while
 15 acting in the course of the practitioner's professional practice,
 16 or except as otherwise authorized by this article.

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

18 (a) A controlled substance classified in schedule 1 or 2
 19 ~~which is either~~ a narcotic drug or A DRUG described in sec-
 20 tion 7214(a)(iv) OR SECTION 7214(C)(i) OR (ii), OR THAT IS a con-
 21 trolled substance analogue, or 2-(methylamino) propiophenone is
 22 guilty of a misdemeanor punishable by imprisonment for not more
 23 than 1 year, or a fine of not more than \$2,000.00, or both.

24 (b) A controlled substance classified in schedule 1, 2, 3,
 25 or 4, except a controlled substance ~~classified in schedule 1~~
 26 for which a penalty is prescribed in subdivision (a), (c), or (d)

1 is guilty of a misdemeanor, punishable by imprisonment for not
2 more than 1 year, or a fine of not more than \$1,000.00, or both.

3 (c) Lysergic acid diethylamide, peyote, mescaline, dimethyl-
4 tryptamine, psilocyn, psilocybin, or a controlled substance clas-
5 sified in schedule 5, is guilty of a misdemeanor, punishable by
6 imprisonment for not more than 6 months, or a fine of not more
7 than \$500.00, or both.

8 (d) Marihuana, is guilty of a misdemeanor, punishable by
9 imprisonment for not more than 90 days, or a fine of not more
10 than \$100.00, or both.