



# HOUSE BILL No. 4244

February 11, 1993, Introduced by Reps. London, Hoffman, Goschka, Lowe, Hill, Jamian, Hammerstrom, Weeks, Horton, Rocca, Bobier, Galloway, Whyman, Bullard, Bodem, Gernaat, Kukuk, Walberg, Nye, McManus, Porreca, Dolan, Jersevic, Brackenridge, Gnodtke, Bender, McBryde, Dalman, Middaugh, Sikkema, Cropsey, Gustafson, Gilmer, Martin, Shugars, Stille, Munsell, Fitzgerald, Middleton and Dobb and referred to the Committee on Judiciary.

A bill to amend Act No. 368 of the Public Acts of 1978,  
entitled as amended  
"Public health code,"  
as amended, being sections 333.1101 to 333.25211 of the Michigan  
Compiled Laws, by adding section 7527.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 368 of the Public Acts of 1978, as  
2 amended, being sections 333.1101 to 333.25211 of the Michigan  
3 Compiled Laws, is amended by adding section 7527 to read as  
4 follows:

5 SEC. 7527. (1) THE PROSECUTING ATTORNEY MAY MOVE IN WRITING  
6 FOR AN ORDER PERMITTING THE DESTRUCTION OF ALL OR PART OF A CON-  
7 TROLLED SUBSTANCE, CONTROLLED SUBSTANCE ANALOGUE, COUNTERFEIT  
8 SUBSTANCE, OR IMITATION CONTROLLED SUBSTANCE SEIZED AS EVIDENCE  
9 IN CONNECTION WITH A VIOLATION OF THIS ARTICLE. THE MOTION SHALL

1 SPECIFY THE REASONS SUPPORTING THE DESTRUCTION. THE PROSECUTING  
2 ATTORNEY SHALL SERVE A COPY OF THE MOTION, AND ANY SUPPORTING  
3 MATERIALS, ON THE DEFENDANT OR HIS OR HER ATTORNEY.

4 (2) IF THE DEFENDANT OBJECTS, THE DEFENDANT OR HIS OR HER  
5 ATTORNEY SHALL FILE SPECIFIC OBJECTIONS WITHIN 20 DAYS AFTER  
6 RECEIVING THE MOTION DESCRIBED IN SUBSECTION (1). FAILING TO  
7 COMPLY WITH THIS TIME LIMIT WAIVES ANY OBJECTION TO THE DESTRU-  
8 TION OF THE EVIDENCE.

9 (3) BEFORE ANY HEARING ON THE MOTION, THE DEFENDANT OR HIS  
10 OR HER ATTORNEY SHALL HAVE AN ADEQUATE OPPORTUNITY TO INSPECT OR  
11 TEST THE EVIDENCE SOUGHT TO BE DESTROYED, SUBJECT TO REASONABLE  
12 SUPERVISION BY LABORATORY OR LAW ENFORCEMENT PERSONNEL.

13 (4) FOLLOWING A HEARING, THE COURT MAY ORDER DESTRUCTION OF  
14 ALL OR PART OF THE CONTROLLED SUBSTANCE, CONTROLLED SUBSTANCE  
15 ANALOGUE, COUNTERFEIT SUBSTANCE, OR IMITATION CONTROLLED SUB-  
16 STANCE IF THE COURT DETERMINES ON THE RECORD THAT THE DESTRUCTION  
17 IS WARRANTED. THE COURT SHALL SPECIFY THE EVIDENCE TO BE  
18 DESTROYED AND MAY INCLUDE FURTHER PROVISIONS IN THE ORDER AS THE  
19 INTERESTS OF JUSTICE REQUIRE.

20 (5) THE LAW ENFORCEMENT AGENCY HAVING CUSTODY OF THE EVI-  
21 DENCE SHALL DESTROY THE CONTROLLED SUBSTANCE, CONTROLLED SUB-  
22 STANCE ANALOGUE, COUNTERFEIT SUBSTANCE, OR IMITATION CONTROLLED  
23 SUBSTANCE IN ACCORDANCE WITH AN ORDER ENTERED UNDER  
24 SUBSECTION (4). BEFORE DESTROYING THE EVIDENCE, THE LAW ENFORCE-  
25 MENT AGENCY SHALL MAKE AN ACCURATE PHOTOGRAPHIC RECORD OF THE  
26 CONTROLLED SUBSTANCE, CONTROLLED SUBSTANCE ANALOGUE, COUNTERFEIT  
27 SUBSTANCE, OR IMITATION CONTROLLED SUBSTANCE. THE COURT MAY

1 ORDER THAT FURTHER RECORDS BE MADE BEFORE THE EVIDENCE IS  
2 DESTROYED.