



HOUSE BILL No. 4979

August 17, 1993, Introduced by Rep. Bryant and referred to the Committee on Judiciary.

A bill to amend section 32 of chapter VIII of Act No. 175 of the Public Acts of 1927, entitled as amended "The code of criminal procedure," as amended by Act No. 90 of the Public Acts of 1988, being section 768.32 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 32 of chapter VIII of Act No. 175 of the
2 Public Acts of 1927, as amended by Act No. 90 of the Public Acts
3 of 1988, being section 768.32 of the Michigan Compiled Laws, is
4 amended to read as follows:

5 CHAPTER VIII

6 Sec. 32. (1) Except as provided in subsection (2), upon an
7 indictment for an offense ~~—~~ consisting of different degrees,
8 ~~as prescribed in this chapter,~~ the jury, or the judge in a
9 trial without a jury, may find the accused not guilty of the

1 offense in the degree charged in the indictment and may find the
2 accused person guilty of a degree of that offense inferior to
3 that charged in the indictment ~~—~~ or ~~of~~ an attempt to commit
4 that offense.

5 (2) Upon an indictment for an offense specified in section
6 7401(2)(a)(i) or (ii) or section 7403(2)(a)(i) or (ii) of the
7 public health code, Act No. 368 of the Public Acts of 1978, being
8 sections 333.7401 and 333.7403 of the Michigan Compiled Laws, or
9 conspiracy to commit 1 or more of these offenses, the jury, or
10 judge in a trial without a jury, may find the accused not guilty
11 of the offense in the degree charged in the indictment but may
12 find the accused guilty of a degree of that offense inferior to
13 that charged in the indictment only if the lesser included
14 offense is a major controlled substance offense FOR WHICH A
15 GUILTY VERDICT IS PERMISSIBLE UNDER THIS SUBSECTION. UPON AN
16 INDICTMENT FOR AN OFFENSE SPECIFIED IN SECTION 7401(2)(A) OF ACT
17 NO. 368 OF THE PUBLIC ACTS OF 1978, THE TRIER OF FACT SHALL NOT
18 FIND THE ACCUSED GUILTY OF AN OFFENSE SPECIFIED IN SECTION
19 7403(2)(A) OF ACT NO. 368 OF THE PUBLIC ACTS OF 1978. A jury
20 shall not be instructed as to other lesser included offenses
21 involving the same controlled substance nor as to an attempt to
22 commit either a major controlled substance offense or a lesser
23 included offense involving the same controlled substance. IF THE
24 INDICTMENT IS FOR AN OFFENSE SPECIFIED IN SECTION 7401(2)(A) OF
25 ACT NO. 368 OF THE PUBLIC ACTS OF 1978, THE JURY SHALL NOT BE
26 INSTRUCTED AS TO AN OFFENSE SPECIFIED IN SECTION 7403(2)(A) OF
27 ACT NO. 368 OF THE PUBLIC ACTS OF 1978 INVOLVING THE SAME

1 CONTROLLED SUBSTANCE. The jury shall be instructed to return a
2 verdict of not guilty of an offense involving the controlled sub-
3 stance at issue if it finds that the evidence does not establish
4 the defendant's guilt as to the commission of a major controlled
5 substance offense involving that controlled substance FOR WHICH A
6 GUILTY VERDICT IS PERMISSIBLE UNDER THIS SECTION. A judge in a
7 trial without a jury shall find the defendant not guilty of an
8 offense involving the controlled substance at issue if the judge
9 finds that the evidence does not establish the defendant's guilt
10 as to the commission of a major controlled substance offense
11 involving that controlled substance FOR WHICH A GUILTY VERDICT IS
12 PERMISSIBLE UNDER THIS SECTION.

13 Section 2. This amendatory act shall not take effect unless
14 House Bill No. 4902 of the 87th Legislature is enacted into law.