



SENATE BILL No. 221

January 26, 1993, Introduced by Senators WELBORN, GEAKE, EHLERS, CISKY, DI NELLO, DILLINGHAM and BOUCHARD and referred to the Committee on Judiciary.

A bill to amend the title and section 17766a of Act No. 368 of the Public Acts of 1978, entitled as amended "Public health code," section 17766a as added by Act No. 30 of the Public Acts of 1990, being section 333.17766a of the Michigan Compiled Laws; and to add section 7408a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and section 17766a of Act No. 368 of
2 the Public Acts of 1978, section 17766a as added by Act No. 30 of
3 the Public Acts of 1990, being section 333.17766a of the Michigan
4 Compiled Laws, are amended and section 7408a is added to read as
5 follows:

SENATE BILL No. 221

1

TITLE

2 An act to protect and promote the public health; to codify,
3 revise, consolidate, classify, and add to the laws relating to
4 public health; to provide for the prevention and control of dis-
5 eases and disabilities; to provide for the classification, admin-
6 istration, regulation, financing, and maintenance of personal,
7 environmental, and other health services and activities; to
8 create or continue, and prescribe the powers and duties of,
9 departments, boards, commissions, councils, committees, task
10 forces, and other agencies; to prescribe the powers and duties of
11 governmental entities and officials; to regulate occupations,
12 facilities, and agencies affecting the public health; to regulate
13 health maintenance organizations and certain third party adminis-
14 trators and insurers; to promote the efficient and economical
15 delivery of health care services, to provide for the appropriate
16 utilization of health care facilities and services, and to pro-
17 vide for the closure of hospitals or consolidation of hospitals
18 or services; to provide for the collection and use of data and
19 information; to provide for the transfer of property; to provide
20 certain immunity from liability; to regulate and prohibit the
21 sale and offering for sale of drug paraphernalia under certain
22 circumstances; to provide for penalties and remedies; TO PROVIDE
23 FOR SANCTIONS FOR CERTAIN VIOLATIONS OF THIS ACT AND LOCAL ORDI-
24 NANCES THAT PROHIBIT CONDUCT PROHIBITED UNDER CERTAIN PROVISIONS
25 OF THIS ACT; to repeal certain acts and parts of acts; to repeal
26 certain parts of this act; and to repeal certain parts of this
27 act on specific dates.

1 SEC. 7408A. (1) IMMEDIATELY UPON ACCEPTANCE BY THE COURT OF
2 A PLEA OF GUILTY OR NOLO CONTENDERE OR UPON ENTRY OF A VERDICT OF
3 GUILTY OR A PROBATE COURT DISPOSITION FOR AN ATTEMPT TO VIOLATE,
4 A CONSPIRACY TO VIOLATE, OR A VIOLATION OF THIS PART OR
5 SECTION 17766A OR OF A LOCAL ORDINANCE THAT PROHIBITS CONDUCT
6 PROHIBITED UNDER THIS PART OR SECTION 17766A, THE COURT SHALL
7 CONSIDER ALL PRIOR CONVICTIONS CURRENTLY ENTERED UPON THE CRIMI-
8 NAL HISTORY RECORD AND MICHIGAN DRIVING RECORD OF THE PERSON,
9 EXCEPT THOSE CONVICTIONS WHICH, UPON MOTION OF THE DEFENDANT, ARE
10 DETERMINED BY THE COURT TO BE CONSTITUTIONALLY INVALID, AND SHALL
11 IMPOSE THE FOLLOWING LICENSING SANCTIONS IN ADDITION TO ANY OTHER
12 PENALTY OR SANCTION IMPOSED FOR THE VIOLATION:

13 (A) IF THE COURT FINDS THAT THE PERSON DOES NOT HAVE A PRIOR
14 CONVICTION WITHIN 7 YEARS OF THE VIOLATION, THE COURT SHALL ORDER
15 THE SECRETARY OF STATE TO SUSPEND THE OPERATOR'S OR CHAUFFEUR'S
16 LICENSE OF THE PERSON FOR A PERIOD OF 6 MONTHS. THE COURT MAY
17 ORDER THE SECRETARY OF STATE TO ISSUE TO THE PERSON A RESTRICTED
18 LICENSE DURING ALL OR A SPECIFIED PORTION OF THE PERIOD OF SUS-
19 PENSION, EXCEPT THAT A RESTRICTED LICENSE SHALL NOT BE ISSUED
20 DURING THE FIRST 30 DAYS OF THE PERIOD OF SUSPENSION.

21 (B) IF THE COURT FINDS THAT THE PERSON HAS 1 OR MORE PRIOR
22 CONVICTIONS WITHIN 7 YEARS OF THE VIOLATION, THE COURT SHALL
23 ORDER THE SECRETARY OF STATE TO SUSPEND THE OPERATOR'S OR
24 CHAUFFEUR'S LICENSE OF THE PERSON FOR A PERIOD OF 1 YEAR. THE
25 COURT MAY ORDER THE SECRETARY OF STATE TO ISSUE TO THE PERSON A
26 RESTRICTED LICENSE DURING ALL OR ANY PORTION OF THE PERIOD OF

1 SUSPENSION, EXCEPT THAT A RESTRICTED LICENSE SHALL NOT BE ISSUED
2 DURING THE FIRST 60 DAYS OF THE PERIOD OF SUSPENSION.

3 (2) THE PERSON WHOSE OPERATOR'S OR CHAUFFEUR'S LICENSE IS
4 ORDERED SUSPENDED UNDER THIS SECTION SHALL IMMEDIATELY SURRENDER
5 TO THE COURT HIS OR HER OPERATOR'S OR CHAUFFEUR'S LICENSE. THE
6 COURT SHALL IMMEDIATELY DESTROY THE LICENSE AND FORWARD AN
7 ABSTRACT OF CONVICTION OR PROBATE COURT DISPOSITION WITH
8 COURT-ORDERED LICENSE SANCTIONS TO THE SECRETARY OF STATE. UPON
9 RECEIPT OF, AND PURSUANT TO, THE ABSTRACT OF CONVICTION WITH
10 COURT-ORDERED LICENSE SANCTIONS, THE SECRETARY OF STATE SHALL
11 SUSPEND THE PERSON'S LICENSE AND, IF ORDERED BY THE COURT AND THE
12 PERSON IS OTHERWISE ELIGIBLE FOR A LICENSE, ISSUE TO THE PERSON A
13 RESTRICTED LICENSE STATING THE LIMITED DRIVING PRIVILEGES INDI-
14 CATED ON THE ABSTRACT. IF THE PROBATE COURT DISPOSITION OR JUDG-
15 MENT AND SENTENCE IS APPEALED TO CIRCUIT COURT, THE COURT MAY, EX
16 PARTE, ORDER THE SECRETARY OF STATE TO STAY THE SUSPENSION OR
17 RESTRICTED LICENSE ISSUED PURSUANT TO THIS SECTION PENDING THE
18 OUTCOME OF THE APPEAL.

19 (3) BEFORE IMPOSING SENTENCE OR ENTERING A PROBATE COURT
20 DISPOSITION, OTHER THAN COURT-ORDERED LICENSE SANCTIONS UNDER
21 THIS SECTION, FOR AN ATTEMPT TO VIOLATE, A CONSPIRACY TO VIOLATE,
22 OR A VIOLATION OF THIS PART OR SECTION 17766A OR OF A LOCAL ORDI-
23 NANCE THAT PROHIBITS CONDUCT PROHIBITED UNDER THIS PART OR
24 SECTION 17766A, THE COURT SHALL ORDER THE PERSON TO UNDERGO
25 SCREENING AND ASSESSMENT BY A PERSON OR AGENCY AS DESIGNATED BY
26 THE OFFICE OF SUBSTANCE ABUSE SERVICES, TO DETERMINE WHETHER THE
27 PERSON IS LIKELY TO BENEFIT FROM REHABILITATIVE SERVICES,

1 INCLUDING ALCOHOL OR DRUG EDUCATION AND ALCOHOL OR DRUG TREATMENT
2 PROGRAMS. THE PERSON SHALL PAY FOR THE COSTS OF THE SCREENING
3 AND ASSESSMENT SERVICES.

4 (4) AS PART OF THE SENTENCE OR PROBATE COURT DISPOSITION FOR
5 AN ATTEMPT TO VIOLATE, A CONSPIRACY TO VIOLATE, OR A VIOLATION OF
6 THIS PART OR SECTION 17766A OR OF A LOCAL ORDINANCE THAT PROHIB-
7 ITS CONDUCT PROHIBITED UNDER THIS PART OR SECTION 17766A, THE
8 COURT MAY ORDER THE PERSON TO DO 1 OR BOTH OF THE FOLLOWING:

9 (A) PERFORM SERVICE TO THE COMMUNITY FOR A PERIOD OF NOT
10 MORE THAN 90 DAYS. A PERSON ORDERED TO PERFORM SERVICE TO THE
11 COMMUNITY UNDER THIS SUBDIVISION SHALL NOT RECEIVE COMPENSATION,
12 AND SHALL REIMBURSE THE STATE OR APPROPRIATE LOCAL UNIT OF GOV-
13 ERNMENT FOR THE COST OF SUPERVISION INCURRED BY THE STATE OR
14 LOCAL UNIT OF GOVERNMENT AS A RESULT OF THE PERSON'S ACTIVITIES
15 IN THAT SERVICE.

16 (B) PARTICIPATE IN AND SUCCESSFULLY COMPLETE 1 OR MORE
17 APPROPRIATE REHABILITATIVE PROGRAMS. THE PERSON SHALL PAY FOR
18 THE COSTS OF THE REHABILITATIVE SERVICES.

19 (5) A SUSPENSION UNDER THIS SECTION SHALL BE IMPOSED TO
20 BEGIN UPON THE EXPIRATION OF ANY OTHER SUSPENSION OF THE
21 OPERATOR'S OR CHAUFFEUR'S LICENSE OF A PERSON THAT IS IN EFFECT
22 AT THE TIME OF THE SUSPENSION UNDER THIS SECTION.

23 (6) A RESTRICTED LICENSE ISSUED PURSUANT TO AN ORDER UNDER
24 THIS SECTION SHALL PERMIT THE PERSON TO WHOM IT IS ISSUED TO DO 1
25 OR MORE OF THE FOLLOWING:

26 (A) DRIVE TO AND FROM THE PERSON'S RESIDENCE AND WORK
27 LOCATION.

1 (B) DRIVE IN THE COURSE OF THE PERSON'S EMPLOYMENT OR
2 OCCUPATION.

3 (C) DRIVE TO AND FROM THE PERSON'S RESIDENCE AND AN ALCOHOL
4 OR DRUG EDUCATION OR TREATMENT PROGRAM AS ORDERED BY THE COURT.

5 (D) DRIVE TO AND FROM THE PERSON'S RESIDENCE AND THE COURT
6 PROBATION DEPARTMENT, OR A COURT-ORDERED COMMUNITY SERVICE PRO-
7 GRAM, OR BOTH.

8 (E) DRIVE TO AND FROM THE PERSON'S RESIDENCE AND AN EDUCA-
9 TIONAL INSTITUTION AT WHICH THE PERSON IS ENROLLED AS A STUDENT.

10 (7) THE COURT MAY ORDER THAT THE RESTRICTED LICENSE ISSUED
11 PURSUANT TO THIS SECTION INCLUDE THE REQUIREMENT THAT THE PERSON
12 SHALL NOT OPERATE A MOTOR VEHICLE UNLESS THE VEHICLE IS EQUIPPED
13 WITH A FUNCTIONING IGNITION INTERLOCK DEVICE. THE DEVICE SHALL
14 BE SET TO RENDER THE MOTOR VEHICLE INOPERABLE IF THE DEVICE
15 DETECTS A BLOOD ALCOHOL CONTENT OF 0.02% OR MORE BY WEIGHT OF
16 ALCOHOL IN THE PERSON WHO OFFERS A BREATH SAMPLE. THE COURT MAY
17 ORDER INSTALLATION OF AN IGNITION INTERLOCK DEVICE ON ANY MOTOR
18 VEHICLE THAT THE PERSON OWNS OR OPERATES, THE COSTS OF WHICH
19 SHALL BE BORNE BY THE PERSON WHOSE LICENSE IS RESTRICTED.

20 (8) THE COURT SHALL NOT ORDER THE SECRETARY OF STATE UNDER
21 THIS SECTION TO ISSUE A RESTRICTED LICENSE THAT WOULD PERMIT A
22 PERSON TO OPERATE A TRUCK OR TRUCK TRACTOR, INCLUDING A TRAILER,
23 THAT HAULS HAZARDOUS MATERIALS.

24 (9) THE COURT SHALL NOT ORDER THE SECRETARY OF STATE TO
25 ISSUE A RESTRICTED LICENSE UNLESS THE PERSON STATES UNDER OATH,
26 AND THE COURT FINDS PURSUANT TO TESTIMONY TAKEN IN OPEN COURT OR
27 PURSUANT TO STATEMENTS CONTAINED IN A SWORN AFFIDAVIT ON A FORM

1 PRESCRIBED BY THE STATE COURT ADMINISTRATOR, THAT THE PERSON IS
2 UNABLE TO TAKE PUBLIC TRANSPORTATION TO AND FROM HIS OR HER WORK
3 LOCATION, PLACE OF ALCOHOL OR DRUG EDUCATION TREATMENT,
4 COURT-ORDERED COMMUNITY SERVICE PROGRAM, OR EDUCATIONAL INSTITU-
5 TION, AND DOES NOT HAVE ANY FAMILY MEMBERS OR OTHER INDIVIDUALS
6 ABLE TO PROVIDE TRANSPORTATION.

7 (10) THE COURT ORDER ISSUED UNDER THIS SECTION AND THE
8 RESTRICTED LICENSE SHALL INDICATE THE PERMITTED DESTINATION OF
9 THE PERSON, THE APPROVED ROUTE OR ROUTES IF SPECIFIED BY THE
10 COURT, AND PERMITTED TIMES OF TRAVEL.

11 (11) AS USED IN THIS SECTION:

12 (A) "CONVICTION" MEANS A FINAL CONVICTION, A PLEA OF GUILTY
13 OR NOLO CONTENDERE IF ACCEPTED BY THE COURT, A FINDING OF GUILT,
14 A PROBATE COURT DISPOSITION, OR A JUVENILE ADJUDICATION, REGARD-
15 LESS OF WHETHER THE PENALTY IS REBATED OR SUSPENDED.

16 (B) "HAZARDOUS MATERIAL" MEANS THAT TERM AS DEFINED IN
17 SECTION 19B OF ACT NO. 300 OF THE PUBLIC ACTS OF 1949, BEING
18 SECTION 257.19B OF THE MICHIGAN COMPILED LAWS.

19 (C) "JUVENILE ADJUDICATION" MEANS EITHER OF THE FOLLOWING:

20 (i) THE FINDING OF JUVENILE DELINQUENCY UNDER CHAPTER 403 OF
21 TITLE 18 OF THE UNITED STATES CODE, 18 U.S.C. 5031 TO 5040 AND
22 5042.

23 (ii) THE ENTRY OF AN ORDER BY THE COURT OF ANOTHER STATE
24 THAT A MINOR VIOLATED A LAW OR LOCAL ORDINANCE OF THAT STATE
25 WHICH VIOLATION WOULD HAVE BEEN A CRIMINAL OFFENSE IF COMMITTED
26 BY AN ADULT IN THAT STATE.

1 (D) "OFFICE OF SUBSTANCE ABUSE SERVICES" MEANS THE AGENCY
2 CREATED BY SECTION 6201.

3 (E) "PRIOR CONVICTION" MEANS EITHER OF THE FOLLOWING:

4 (i) A CONVICTION FOR AN ATTEMPT TO VIOLATE, A CONSPIRACY TO
5 VIOLATE, OR A VIOLATION OF PART 74 OR SECTION 17766A, A LOCAL
6 ORDINANCE THAT PROHIBITS CONDUCT PROHIBITED UNDER PART 74 OR
7 SECTION 17766A, OR A LAW OR LOCAL ORDINANCE OF ANOTHER STATE THAT
8 PROHIBITS CONDUCT PROHIBITED UNDER PART 74 OR SECTION 17766A.

9 (ii) A CONVICTION FOR AN ATTEMPT TO VIOLATE, A CONSPIRACY TO
10 VIOLATE, OR A VIOLATION OF THE CONTROLLED SUBSTANCES ACT, TITLE
11 II OF THE COMPREHENSIVE DRUG ABUSE PREVENTION AND CONTROL ACT OF
12 1970, PUBLIC LAW 91-513, 84 STAT. 1242.

13 (F) "PROBATE COURT DISPOSITION" MEANS THE ENTRY OF A PROBATE
14 COURT ORDER OF DISPOSITION FOR A CHILD FOUND TO BE WITHIN THE
15 PROVISIONS OF CHAPTER XIIIA OF ACT NO. 288 OF THE PUBLIC ACTS OF
16 1939, BEING SECTIONS 712A.1 TO 712A.28 OF THE MICHIGAN COMPILED
17 LAWS.

18 (G) "TRAILER" MEANS THAT TERM AS DEFINED IN SECTION 73 OF
19 ACT NO. 300 OF THE PUBLIC ACTS OF 1949, BEING SECTION 257.73 OF
20 THE MICHIGAN COMPILED LAWS.

21 (H) "TRUCK" MEANS THAT TERM AS DEFINED IN SECTION 75 OF ACT
22 NO. 300 OF THE PUBLIC ACTS OF 1949, BEING SECTION 257.75 OF THE
23 MICHIGAN COMPILED LAWS.

24 (I) "TRUCK TRACTOR" MEANS THAT TERM AS DEFINED IN SECTION 77
25 OF ACT NO. 300 OF THE PUBLIC ACTS OF 1949, BEING SECTION 257.77
26 OF THE MICHIGAN COMPILED LAWS.

1 (J) "WORK LOCATION" MEANS, AS APPLICABLE, EITHER THE
2 SPECIFIC PLACE OR PLACES OF EMPLOYMENT, OR THE TERRITORY OR
3 TERRITORIES REGULARLY VISITED BY THE PERSON IN PURSUANCE OF THE
4 PERSON'S OCCUPATION, OR BOTH.

5 Sec. 17766a. (1) A person shall not knowingly use an andro-
6 genic anabolic steroid except as provided in this act. A person
7 who violates this subsection is guilty of a misdemeanor, punish-
8 able by imprisonment for not more than 90 days or by a fine of
9 not more than \$100.00, or both.

10 (2) A person shall not knowingly possess an androgenic ana-
11 bolic steroid except pursuant to the lawful prescription of a
12 practitioner. A person who violates this subsection is guilty of
13 a misdemeanor, punishable by imprisonment for not more than 90
14 days or by a fine of not more than \$100.00, or both. A person
15 who commits a second or subsequent violation of this subsection
16 is guilty of a felony, punishable by imprisonment for not more
17 than 4 years or by a fine of not more than \$2,000.00, or both.

18 (3) A person shall not knowingly deliver an androgenic ana-
19 bolic steroid to another person except as provided in this act or
20 knowingly possess an androgenic anabolic steroid with the intent
21 to deliver that androgenic anabolic steroid to another person
22 except as provided in this act. A person who violates this sub-
23 section is guilty of a felony, punishable by imprisonment for not
24 more than 7 years or by a fine of not more than \$5,000.00, or
25 both.

26 (4) A person shall not knowingly deliver a counterfeit
27 androgenic anabolic steroid to another person or knowingly

1 possess a counterfeit androgenic anabolic steroid with the intent
2 to deliver that counterfeit androgenic anabolic steroid to
3 another person. A person who violates this subsection is guilty
4 of a felony, punishable by imprisonment for not more than 7 years
5 or by a fine of not more than \$5,000.00, or both. This subsec-
6 tion does not apply to a person who knowingly delivers a counter-
7 feit androgenic anabolic steroid to another person or knowingly
8 possesses a counterfeit androgenic anabolic steroid with the
9 intent to deliver that androgenic anabolic steroid to another
10 person for legitimate and professionally recognized therapeutic
11 or scientific purposes.

12 (5) It is not necessary for this state to negate any exemp-
13 tion or exception in a complaint, information, indictment, or
14 other pleading or in a trial, hearing, or other proceeding pursu-
15 ant to this section. The burden of proof of an exemption or
16 exception is upon the person claiming that exemption or
17 exception.

18 (6) In the absence of proof that a person is the authorized
19 holder of an appropriate license or order form, the person is
20 presumed not to be the holder of the license or order form. The
21 burden of proof is upon the person to rebut the presumption.

22 (7) A liability is not imposed by this section upon an
23 authorized state, county, or local officer, engaged in the lawful
24 performance of his or her duties.

25 (8) Property is subject to forfeiture for a violation of
26 this section as provided under sections 7521 to 7524.

1 (9) A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO
2 LICENSING SANCTIONS UNDER SECTION 7408A.

3 (10) ~~-(9)-~~ As used in this section:

4 (a) Except as provided in subdivision (b), "androgenic ana-
5 bolic steroid" includes any of the following or any isomer,
6 ester, salt, or derivative of the following that acts in the same
7 manner on the human body:

- 8 (i) Dehydrochlormethyltestosterone.
- 9 (ii) Ethylestrenol.
- 10 (iii) Fluoxymesterone.
- 11 (iv) Mesterolone.
- 12 (v) Methandienone.
- 13 (vi) Methandrostenolone.
- 14 (vii) Methenolone.
- 15 (viii) Methyltestosterone.
- 16 (ix) Nandrolone.
- 17 (x) Nandrolone deconoate.
- 18 (xi) Norethandrolone.
- 19 (xii) Oxandrolone.
- 20 (xiii) Oxymesterone.
- 21 (xiv) Oxymetholone.
- 22 (xv) Stanozolol.
- 23 (xvi) Testosterone.
- 24 (xvii) Testosterone enanthate.
- 25 (xviii) Testosterone propionate.
- 26 (xix) Testosterone cypionate.

1 (b) "Androgenic anabolic steroid" does not include any
2 anabolic steroids which are expressly intended for administration
3 through implants to livestock or other nonhuman species and which
4 are approved by the federal food and drug administration for such
5 use.

6 (c) "Counterfeit androgenic anabolic steroid" means 1 or
7 more of the following:

8 (i) An androgenic anabolic steroid that, without authoriza-
9 tion, bears a trade name, identifying mark, imprint, or number of
10 a person other than the manufacturer, distributor, or dispenser
11 of that androgenic anabolic steroid.

12 (ii) An androgenic anabolic steroid that, without authoriza-
13 tion, is packaged in a container that bears a trade name, identi-
14 fying mark, imprint, or number of a person other than the manu-
15 facturer, distributor, or dispenser of that androgenic anabolic
16 steroid.

17 (iii) A substance other than an androgenic anabolic steroid
18 that bears a trade name, identifying mark, imprint, or number
19 that misrepresents the substance as an androgenic anabolic
20 steroid.

21 (iv) A substance other than an androgenic anabolic steroid
22 that is packaged in a container that bears a trade name, identi-
23 fying mark, imprint, or number that misrepresents the substance
24 as an androgenic anabolic steroid.

25 (d) "Deliver" means the actual, constructive, or attempted
26 transfer of an androgenic anabolic steroid or counterfeit

1 androgenic anabolic steroid from 1 person to another, whether or
2 not there is an agency relationship.

3 Section 2. This amendatory act shall take effect October 1,
4 1993.

5 Section 3. This amendatory act shall not take effect unless
6 all of the following bills of the 87th Legislature are enacted
7 into law:

8 (a) Senate Bill No. 222.

9

10 (b) Senate Bill No. 267.

11

12 (c) Senate Bill No. 223.

13