

REPRINT

**SUBSTITUTE FOR
SENATE BILL NO. 3**

(As Passed the Senate February 19, 1997)

(As amended April 1, 1998)

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 7410 (MCL 333.7410), as amended by 1994 PA
174.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7410. (1) Except as otherwise provided in
2 subsections (2) and (3), an individual ~~18~~ 17 years of age or
3 over who violates section 7401(2)(a)(iv) by delivering or dis-
4 tributing a controlled substance listed in schedule 1 or 2 that
5 is either a narcotic drug or described in section 7214(a)(iv) to
6 an individual under 18 years of age who is at least ~~3~~ 2 years
7 the deliverer's or distributor's junior may be punished by the
8 fine authorized by section 7401(2)(a)(iv) or by a term of
9 imprisonment of not [~~less than 1 year nor~~]2 more than twice that

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1 authorized by section 7401(2)(a)(iv), or both. An individual
2 ~~18~~ 17 years of age or over who violates section 7401 by deliv-
3 ering or distributing any other controlled substance listed in
4 schedules 1 to 5 to an individual under 18 years of age who is at
5 least ~~3~~ 2 years the distributor's junior may be punished by the
6 fine authorized by section 7401(2)(b), (c), or (d), or by a term
7 of imprisonment not more than twice that authorized by section
8 7401(2)(b), (c), or (d), or both.

9 (2) An individual ~~18~~ 17 years of age or over who violates
10 section 7401(2)(a)(iv) by delivering a controlled substance
11 described in schedule 1 or 2 that is either a narcotic drug or
12 described in section 7214(a)(iv) to a minor ~~who is a student~~ on
13 or within 1,000 feet of school property OR TO A MINOR WHO IS IN A
14 PUBLIC PARK OR PRIVATE PARK OR WITHIN 1,000 FEET OF A PUBLIC PARK
15 OR PRIVATE PARK [~~shall~~ MAY] be pun-
16 ished, subject to subsection (5), by a term of imprisonment of
17 not [~~less than 2 years or~~] more than 3 times that authorized by
18 section 7401(2)(a)(iv) and, in addition, may be punished by a
19 fine of not more than 3 times that authorized by section
20 7401(2)(a)(iv).

21 (3) An individual ~~18~~ 17 years of age or over who violates
22 section 7401(2)(a)(iv) by possessing with intent to deliver to a
23 minor ~~who is a student~~ on or within 1,000 feet of school prop-
24 erty
25 OR TO A MINOR WHO IS IN A PUBLIC PARK OR PRIVATE PARK OR WITHIN
26 1,000 FEET OF A
27 PUBLIC PARK OR PRIVATE PARK a controlled substance described in
schedule 1 or 2
that is either a narcotic drug or described in section
7214(a)(iv) [~~shall~~ MAY] be punished, subject to subsection (5), by a
term of imprisonment of not [~~less than 2 years or~~] more than twice

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1 that authorized by section 7401(2)(a)(iv) and, in addition, may
2 be punished by a fine of not more than 3 times that authorized by
3 section 7401(2)(a)(iv).

4 (4) An individual ~~18~~ 17 years of age or over who violates
5 section 7403(2)(a)(v), (b), (c), or (d) by possessing a con-
6 trolled substance on school property OR IN A PUBLIC PARK shall be
7 punished by a term of imprisonment or a fine, or both, of not
8 more than twice that authorized by section 7403(2)(a)(v), (b),
9 (c), or (d).

10 [~~5~~] ~~The court may depart from the minimum term of imprison-~~
11 ~~ment authorized under subsection (2) or (3) if the court finds on~~
12 ~~the record that there are substantial and compelling reasons to~~
13 ~~do so.]~~

14 [~~6~~] (5) As used in this section: ~~,"school"~~

15 (A) "PUBLIC PARK" MEANS REAL PROPERTY OWNED OR MAINTAINED BY
16 THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE THAT IS DES-
17 IGNATED BY THIS STATE OR BY THAT POLITICAL SUBDIVISION AS A
18 PUBLIC PARK.

(B) "PRIVATE PARK" MEANS REAL PROPERTY OWNED OR MAINTAINED
BY A PRIVATE INDIVIDUAL OR ENTITY AND WHICH IS OPEN TO THE GEN-
ERAL PUBLIC OR LOCAL RESIDENTS FOR THE PURPOSES OF RECREATION OR
AMUSEMENT.

19 (C) "SCHOOL property" means a building, playing field, or
20 property used for school purposes to impart instruction to chil-
21 dren in grades kindergarten through 12, when provided by a
22 public, private, denominational, or parochial school, except
23 those buildings used primarily for adult education or college
24 extension courses.

25 [~~7~~] (6) A person who distributes marihuana without
remuneration
26 and not to further commercial distribution and who does not
27 violate subsection (1) is guilty of a misdemeanor, punishable by

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1 imprisonment for not more than 1 year, or a fine of not more than
2 \$1,000.00, or both, unless the distribution is in accordance with
3 the federal law or the law of this state.

[Enacting section 1. This amendatory act takes effect
August 1, 1998.]