

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5262**

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 7104, 7107, and 7109 (MCL 333.7104,
333.7107, and 333.7109), section 7104 as amended by 1994 PA 38
and sections 7107 and 7109 as amended by 1993 PA 80.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7104. (1) "Bureau" means the drug enforcement adminis-
2 tration, United States department of justice, or its successor
3 agency.

4 (2) "Controlled substance" means a drug, substance, or imme-
5 diate precursor included in schedules 1 to 5 of part 72.

6 (3) "Controlled substance analogue" means a substance the
7 chemical structure of which is substantially similar to that of a
8 controlled substance in schedule 1 or 2 and that has a narcotic,
9 stimulant, depressant, or hallucinogenic effect on the central

HB 5262, As Passed Senate, December 12, 2001

House Bill No. 5262

2

1 nervous system substantially similar to or greater than the
2 narcotic, stimulant, depressant, or hallucinogenic effect on the
3 central nervous system of a controlled substance included in
4 schedule 1 or 2 or, with respect to a particular individual, that
5 the individual represents or intends to have a narcotic, stimu-
6 lant, depressant, or hallucinogenic effect on the central nervous
7 system substantially similar to or greater than the narcotic,
8 stimulant, depressant, or hallucinogenic effect on the central
9 nervous system of a controlled substance included in schedule 1
10 or 2. Controlled substance analogue does not include ~~any~~ 1 OR
11 MORE of the following:

12 (a) A controlled substance.

13 (b) A substance for which there is an approved new drug
14 application.

15 (c) A substance with respect to which an exemption is in
16 effect for investigational use by a particular person under
17 section 505 of the federal food, drug and cosmetic act,
18 chapter 675, 52 Stat. ~~1040~~ 1052, 21 U.S.C. 355, to the extent
19 conduct with respect to the substance is pursuant to the
20 exemption.

21 (d) Any substance to the extent not intended for human con-
22 sumption before an exemption takes effect with respect to the
23 substance.

24 (4) "Counterfeit prescription form" means a printed form
25 that is the same or similar to a prescription form ~~or an offi-~~
26 ~~cial prescription form,~~ and that was manufactured, printed,
27 duplicated, forged, ELECTRONICALLY TRANSMITTED, or altered

HB 5262, As Passed Senate, December 12, 2001

House Bill No. 5262

3

1 without the knowledge or permission of a ~~licensed prescribing~~
2 ~~practitioner, or, in the case of official prescription forms, the~~
3 ~~department of commerce~~ PRESCRIBER.

4 (5) "Counterfeit substance" means a controlled substance
5 ~~which~~ THAT, or the container or labeling of which, without
6 authorization, bears the trademark, trade name or other identify-
7 ing mark, imprint, number, or device, or any likeness thereof, of
8 a manufacturer, distributor, or dispenser other than the person
9 who in fact manufactured, distributed, or dispensed the
10 substance.

11 (6) "Deleterious drug" means a drug, other than a propri-
12 etary medicine, likely to be destructive to adult human life in
13 quantities of 3.88 grams or less.

14 (7) "ELECTRONIC SIGNATURE" MEANS AN ELECTRONIC SOUND,
15 SYMBOL, OR PROCESS ATTACHED TO OR LOGICALLY ASSOCIATED WITH A
16 RECORD AND EXECUTED OR ADOPTED BY A PERSON WITH THE INTENT TO
17 SIGN THE RECORD.

18 Sec. 7107. ~~-(1)-~~ "Narcotic drug" means ~~any~~ 1 OR MORE of
19 the following, whether produced directly or indirectly by extrac-
20 tion from substances of vegetable origin, or independently by
21 means of chemical synthesis, or by a combination of extraction
22 and chemical synthesis:

23 (a) Opium and opiate, and any salt, compound, derivative, or
24 preparation of opium or opiate.

25 (b) Any salt, compound, isomer, derivative, or preparation
26 thereof which is chemically equivalent or identical with any of

HB 5262, As Passed Senate, December 12, 2001

House Bill No. 5262

4

1 the substances referred to in subdivision (a), but not including
2 the isoquinoline alkaloids of opium.

3 ~~-(2) "Official prescription form" means a prescription form~~
4 ~~that meets the requirements of section 7334 and is issued to~~
5 ~~practitioners by the department of commerce.~~

6 Sec. 7109. (1) "Person" means a person as defined in sec-
7 tion 1106 or a governmental entity.

8 (2) "Poppy straw" means all parts, except the seeds, of the
9 opium poppy, after mowing.

10 (3) "Practitioner" means:

11 (a) A prescriber or pharmacist, a scientific investigator as
12 defined by rule of the administrator, or other person licensed,
13 registered, or otherwise permitted to distribute, dispense, con-
14 duct research with respect to, or administer a controlled sub-
15 stance in the course of professional practice or research in this
16 state, including an individual in charge of a dog pound or animal
17 shelter licensed or registered by the department of agriculture
18 pursuant to ~~Act No. 287 of the Public Acts of 1969, being sec-~~
19 ~~tions 287.331 to 287.340 of the Michigan Compiled Laws~~ 1969
20 PA 287, MCL 287.331 TO 287.340, or a class B dealer licensed by
21 the United States department of agriculture pursuant to the
22 animal welfare act, Public Law 89-544, 7 U.S.C. 2131 to 2147,
23 2149, and 2151 to 2159 and the department of agriculture pursuant
24 to ~~Act No. 224 of the Public Acts of 1969, being~~
25 ~~sections 287.381 to 287.395 of the Michigan Compiled Laws~~ 1969
26 PA 224, MCL 287.381 TO 287.395, for the limited purpose of
27 buying, possessing, and administering a commercially prepared,

HB 5262, As Passed Senate, December 12, 2001

House Bill No. 5262

5

1 premixed solution of sodium pentobarbital to practice euthanasia
2 on animals.

3 (b) A pharmacy, hospital, or other institution or place of
4 professional practice licensed, registered, or otherwise permit-
5 ted to distribute, prescribe, dispense, conduct research with
6 respect to, or administer a controlled substance in the course of
7 professional practice or research in this state.

8 (4) "PRESCRIBER" MEANS THAT TERM AS DEFINED IN SECTION
9 17708.

10 (5) ~~-(4)-~~ "Prescription form" means a printed form, ~~which~~
11 THAT is authorized and intended for use by a prescribing practi-
12 tioner to prescribe controlled substances or OTHER prescription
13 drugs and ~~which~~ THAT meets the requirements of rules promul-
14 gated by the administrator, ~~—~~ AND ALL OF THE FOLLOWING
15 REQUIREMENTS:

16 (A) BEARS THE PREPRINTED, STAMPED, TYPED, OR MANUALLY
17 PRINTED NAME, ADDRESS, AND TELEPHONE NUMBER OR PAGER NUMBER OF
18 THE PRESCRIBING PRACTITIONER.

19 (B) INCLUDES THE MANUALLY PRINTED NAME OF THE PATIENT, THE
20 ADDRESS OF THE PATIENT, THE PRESCRIBING PRACTITIONER'S SIGNATURE,
21 AND THE PRESCRIBING PRACTITIONER'S DRUG ENFORCEMENT ADMINISTRA-
22 TION REGISTRATION NUMBER.

23 (C) THE QUANTITY OF THE PRESCRIPTION DRUG PRESCRIBED, IN
24 BOTH WRITTEN AND NUMERICAL TERMS.

25 (D) INCLUDES THE DATE THE PRESCRIPTION DRUG WAS PRESCRIBED.

26 (E) ANY RULES PROMULGATED BY THE DEPARTMENT PURSUANT TO
27 SECTION 7333A(7).

HB 5262, As Passed Senate, December 12, 2001

House Bill No. 5262

6

1 (6) ~~—(5)—~~ "Production" means the manufacture, planting,
2 cultivation, growing, or harvesting of a controlled substance.

3 (7) "SIGN" MEANS TO AFFIX ONE'S SIGNATURE MANUALLY TO A DOC-
4 UMENT OR TO USE AN ELECTRONIC SIGNATURE.

5 (8) ~~—(6)—~~ "Ultimate user" means an individual who lawfully
6 possesses a controlled substance for personal use or for the use
7 of a member of the individual's household, or for administering
8 to an animal owned by the individual or by a member of the
9 individual's household.

10 Enacting section 1. Sections 7104, 7107, and 7109 of the
11 public health code, 1978 PA 368, MCL 333.7104, 333.7107, and
12 333.7109, as amended by this amendatory act, take effect upon the
13 promulgation of the rules required under section 7333a of the
14 public health code, 1978 PA 368, MCL 333.7333a, and receipt by
15 the secretary of state of written notice from the director of the
16 department of consumer and industry services that the electronic
17 monitoring system required by section 7333a of the public health
18 code, 1978 PA 368, MCL 333.7333a, is operational. The notice to
19 the secretary of state shall include a statement that the depart-
20 ment of consumer and industry services is able to receive data
21 from at least 80% of those required to report under section 7333a
22 of the public health code, 1978 PA 368, MCL 333.7333a, and is
23 able to respond to requests for data from persons authorized to
24 make such requests and to review and utilize the data.

25 Enacting section 2. This amendatory act does not take
26 effect unless all of the following bills of the 91st Legislature
27 are enacted into law:

HB 5262, As Passed Senate, December 12, 2001

House Bill No. 5262

7

- 1 (a) Senate Bill No. 827.
- 2 (b) House Bill No. 5260.
- 3 (c) House Bill No. 5261.