

**SUBSTITUTE FOR
HOUSE BILL NO. 6095**

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 7212, 7401, 7402, 7403, and 7404
(MCL 333.7212, 333.7401, 333.7402, 333.7403, and 333.7404),
section 7212 as amended by 1998 PA 248, sections 7401 and 7403 as
amended by 2001 PA 236, and sections 7402 and 7404 as amended by
2000 PA 314.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7212. (1) The following controlled substances are
2 included in schedule 1:

3 (a) Any of the following opiates, including their isomers,
4 esters, the ethers, salts, and salts of isomers, esters, and
5 ethers, unless specifically excepted, when the existence of these
6 isomers, esters, ethers, and salts is possible within the
7 specific chemical designation:

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2

1	Acetylmethadol	Difenoxin	Noracymethadol
2	Allylprodine	Dimenoxadol	Norlevorphanol
3	Alpha-acetylmethadol	Dimepheptanol	Normethadone
4	Alphameprodine	Dimethylthiambutene	Norpipanone
5	Alphamethadol	Dioxaphetyl butyrate	Phenadoxone
6	Benzethidine	Dipipanone	Phenampramide
7	Betacetylmethadol	Ethylmethylthiambutene	Phenomorphane
8	Betameprodine	Etonitazene	Phenoperidine
9	Betamethadol	Etoxeridine	Piritramide
10	Betaprodine	Furethidine	Proheptazine
11	Clonitazene	Hydroxypethidine	Properidine
12	Dextromoramide	Ketobemidone	Propiram
13	Diampramide	Levomoramide	Racemoramide
14	Diethylthiambutene	Levophenacymorphan	Trimeperidine
15		Morpheridine	

16
17 (b) Any of the following opium derivatives, their salts,
18 isomers, and salts of isomers, unless specifically excepted, when
19 the existence of these salts, isomers, and salts of isomers is
20 possible within the specific chemical designation:

21

22	Acetorphine	Drotebanol	Morphine-N-Oxide
23	Acetyldihydrocodeine	Etorphine	Myrophine
24	Benzylmorphine	Heroin	Nicocodeine
25	Codeine methylbromide	Hydromorphanol	Nicomorphine
26	Codeine-N-Oxide	Methyldesorphine	Normorphine
27	Cyprenorphine	Methyldihydromorphine	Pholcodine
28	Desomorphine	Morphine methylbromide	Thebacon
29	Dihydromorphine	Morphine methylsulfonate	

30

31 (c) Any material, compound, mixture, or preparation which
32 contains any quantity of the following hallucinogenic substances,
33 their salts, isomers, and salts of isomers, unless specifically
34 excepted, when the existence of these salts, isomers, and salts
35 of isomers is possible within the specific chemical designation:

36

37 2-Methylamino-1-phenylpropan-1-one
38 Some trade and other names:
39 Methcathinone
40 Cat
41 Ephedrone

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- 1 3, 4-methylenedioxy amphetamine
2 5-methoxy-3, 4-methylenedioxy
3 amphetamine
4 3, 4, 5-trimethoxy amphetamine
5 Bufotenine
6 Some trade and other names:
7 3-(B-dimethylaminoethyl)-5 hydroxyindole
8 3-(2-dimethylaminoethyl)-5 indolol
9 N,N-dimethylserotonin; 5-hydroxy-N-dimethyltryptamine
10 Mappine
11 2, 5-Dimethoxyamphetamine
12 Some trade or other names:
13 2, 5-Dimethoxy-a-methylphenethylamine; 2,5-DMA
14 4-Bromo-2, 5-Dimethoxyamphetamine
15 Some trade or other names:
16 4-bromo-2, 5 dimethoxy-a-methylphenethylamine; 4-bromo
17 2,5-DMA
18 Diethyltryptamine
19 Some trade and other names:
20 N,N-Diethyltryptamine; DET
21 Dimethyltryptamine
22 Some trade or other names:
23 DMT
24 4-methyl-2, 5-dimethoxyamphetamine
25 Some trade and other names:
26 4-methyl-2, 5-dimethoxy-a-methyl-phenethylamine

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- 1 DOM, STP
- 2 4-methoxyamphetamine
- 3 Some trade or other names:
- 4 4-methoxy- α -methylphenethylamine; paramethoxy amphetamine;
- 5 PMA
- 6 Ibogaine
- 7 Some trade and other names:
- 8 7-Ethyl-6,6a,7,8,9,10,12,13
- 9 Octahydro-2-methoxy-6,9-methano-5H-
- 10 pyrido (1, 2:1, 2 azepino 4, 5-b) indole
- 11 tabernanthe iboga
- 12 Lysergic acid diethylamide
- 13 Marihuana, except as otherwise provided in subsection (2)
- 14 Mecloqualone
- 15 Mescaline
- 16 Peyote
- 17 N-ethyl-3 piperidyl benzilate
- 18 N-methyl-3 piperidyl benzilate
- 19 Psilocybin
- 20 Psilocyn
- 21 Thiophene analog of phencyclidine
- 22 Some trade or other names:
- 23 1-(1-(2-thienyl)cyclohexyl) piperidine)
- 24 2-thienyl analog of phencyclidine; TCP
- 25
- 26 (d) Except as provided in subsection (2), synthetic
- 27 equivalents of the substances contained in the plant, or in the

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1 resinous extractives of cannabis and synthetic substances,
2 derivatives, and their isomers with similar chemical structure or
3 pharmacological activity, or both, such as the following, are
4 included in schedule 1:

5 (i) Δ^1 cis or trans tetrahydrocannabinol, and their optical
6 isomers.

7 (ii) Δ^6 cis or trans tetrahydrocannabinol, and their opti-
8 cal isomers.

9 (iii) $\Delta^{3,4}$, cis or trans tetrahydrocannabinol, and their
10 optical isomers.

11 (e) Compounds of structures of substances referred to in
12 subdivision (d), regardless of numerical designation of atomic
13 positions, are included.

14 (f) Gamma-hydroxybutyrate and any isomer, salt, or salt of
15 isomer of gamma-hydroxybutyrate.

16 Some trade and other names:

17 Sodium oxybate

18 4-hydroxybutanoic acid monosodium salt

19 (G) 3,4-METHYLENEDIOXYMETHAMPHETAMINE.

20 SOME TRADE AND OTHER NAMES:

21 ECSTASY

22 MDMA

23 (2) Marihuana and the substances described in subsection (1)

24 (d) and (e) in schedule 1 shall be regulated as provided in
25 schedule 2, if they are dispensed in the manner provided in sec-
26 tions 7335 and 7336.

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1 (3) For purposes of subsection (1), "isomer" includes the
2 optical, position, and geometric isomers.

3 Sec. 7401. (1) Except as authorized by this article, a
4 person shall not manufacture, create, deliver, or possess with
5 intent to manufacture, create, or deliver a controlled substance,
6 a prescription form, or a counterfeit prescription form. A prac-
7 titioner licensed by the administrator under this article shall
8 not dispense, prescribe, or administer a controlled substance for
9 other than legitimate and professionally recognized therapeutic
10 or scientific purposes or outside the scope of practice of the
11 practitioner, licensee, or applicant.

12 (2) A person who violates this section as to:

13 (a) A controlled substance classified in schedule 1 or 2
14 that is a narcotic drug or a drug described in section
15 7214(a)(iv) and:

16 (i) Which is in an amount of 650 grams or more of any mix-
17 ture containing that substance is guilty of a felony punishable
18 by imprisonment for life or any term of years but not less than
19 20 years.

20 (ii) Which is in an amount of 225 grams or more, but less
21 than 650 grams, of any mixture containing that substance is
22 guilty of a felony and shall be imprisoned for not less than 20
23 years nor more than 30 years.

24 (iii) Which is in an amount of 50 grams or more, but less
25 than 225 grams, of any mixture containing that substance is
26 guilty of a felony and shall be imprisoned for not less than 10
27 years nor more than 20 years.

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1 (iv) Which is in an amount less than 50 grams, of any
2 mixture containing that substance is guilty of a felony and shall
3 be imprisoned for not less than 1 year nor more than 20 years,
4 and may be fined not more than \$25,000.00, or placed on probation
5 for life.

6 (b) Either of the following:

7 (i) A substance described in section 7212(1)(G) OR
8 7214(c)(ii) is guilty of a felony punishable by imprisonment for
9 not more than 20 years or a fine of not more than \$25,000.00, or
10 both.

11 (ii) Any other controlled substance classified in schedule
12 1, 2, or 3, except marihuana is guilty of a felony punishable by
13 imprisonment for not more than 7 years or a fine of not more than
14 \$10,000.00, or both.

15 (c) A substance classified in schedule 4 is guilty of a
16 felony punishable by imprisonment for not more than 4 years or a
17 fine of not more than \$2,000.00, or both.

18 (d) Marihuana or a mixture containing marihuana is guilty of
19 a felony punishable as follows:

20 (i) If the amount is 45 kilograms or more, or 200 plants or
21 more, by imprisonment for not more than 15 years or a fine of not
22 more than \$10,000,000.00, or both.

23 (ii) If the amount is 5 kilograms or more but less than 45
24 kilograms, or 20 plants or more but fewer than 200 plants, by
25 imprisonment for not more than 7 years or a fine of not more than
26 \$500,000.00, or both.

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1 (iii) If the amount is less than 5 kilograms or fewer than
2 20 plants, by imprisonment for not more than 4 years or a fine of
3 not more than \$20,000.00, or both.

4 (e) A substance classified in schedule 5 is guilty of a
5 felony punishable by imprisonment for not more than 2 years or a
6 fine of not more than \$2,000.00, or both.

7 (f) A prescription form or a counterfeit prescription form
8 is guilty of a felony punishable by imprisonment for not more
9 than 7 years or a fine of not more than \$5,000.00, or both.

10 (3) A term of imprisonment imposed under subsection (2)(a)
11 or section 7403(2)(a)(i), (ii), (iii), or (iv) shall be imposed
12 to run consecutively with any term of imprisonment imposed for
13 the commission of another felony. An individual subject to a
14 mandatory term of imprisonment under subsection (2)(a) or section
15 7403(2)(a)(i), (ii), (iii), or (iv) is not eligible for proba-
16 tion, suspension of that sentence, or parole during that manda-
17 tory term, except to the extent that those provisions permit pro-
18 bation for life, and shall not receive a reduction in that manda-
19 tory term of imprisonment by disciplinary credits or any other
20 type of sentence credit reduction.

21 (4) The court may depart from the minimum term of imprison-
22 ment authorized under subsection (2)(a)(ii), (iii), or (iv) if
23 the court finds on the record that there are substantial and com-
24 pelling reasons to do so. In addition, if any of the following
25 apply, the court may depart from the minimum term of imprisonment
26 authorized under subsection (2)(a)(ii), (iii), or (iv) if the
27 individual has not previously been convicted of a felony or an

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1 assaultive crime and has not been convicted of another felony or
2 assaultive crime arising from the same transaction as the viola-
3 tion of this section:

4 (a) The person is within the jurisdiction of the circuit
5 court under section 606 of the revised judicature act of 1961,
6 1961 PA 236, MCL 600.606, or section 4 of chapter XIIIA of the
7 probate code of 1939, 1939 PA 288, MCL 712A.4.

8 (b) The person is being sentenced under section 18(1)(n) of
9 chapter XIIIA of the probate code of 1939, 1939 PA 288,
10 MCL 712A.18.

11 (5) As used in this section:

12 (a) "Assaultive crime" means a violation of sections 81 to
13 90 of the Michigan penal code, 1931 PA 328, MCL 750.81 to
14 750.90.

15 (b) "Plant" means a marihuana plant that has produced coty-
16 ledons or a cutting of a marihuana plant that has produced
17 cotyledons.

18 Sec. 7402. (1) Except as authorized by this article, a
19 person shall not create, manufacture, deliver, or possess with
20 intent to deliver a counterfeit substance or a controlled sub-
21 stance analogue intended for human consumption. This section
22 does not apply to a person who manufactures or distributes a sub-
23 stance in conformance with the provisions of an approved new drug
24 application or an exemption for investigational use within the
25 meaning of section 505 of the federal food, drug, and cosmetic
26 act, 21 U.S.C. 355. For purposes of this section, section 505 of
27 the federal food, drug, and cosmetic act shall be applicable to

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1 the introduction or delivery for introduction of any new drug
2 into intrastate, interstate, or foreign commerce.

3 (2) A person who violates this section as to:

4 (a) A counterfeit substance classified in schedule 1 or 2
5 which is either a narcotic drug or A DRUG described in section
6 7212(1)(G) OR 7214(a)(iv) or (c)(ii), is guilty of a felony —
7 punishable by imprisonment for not more than 10 years —, or a
8 fine of not more than \$10,000.00, or both.

9 (b) Any other counterfeit substance classified in schedule
10 1, 2, or 3, is guilty of a felony —, punishable by imprisonment
11 for not more than 5 years —, or a fine of not more than
12 \$5,000.00, or both.

13 (c) A counterfeit substance classified in schedule 4, is
14 guilty of a felony —, punishable by imprisonment for not more
15 than 4 years —, or a fine of not more than \$2,000.00, or both.

16 (d) A counterfeit substance classified in schedule 5, is
17 guilty of a felony —, punishable by imprisonment for not more
18 than 2 years —, or a fine of not more than \$2,000.00, or both.

19 (e) A controlled substance analogue, is guilty of a felony
20 —, punishable by imprisonment for not more than 15 years —, or
21 a fine of not more than \$250,000.00, or both.

22 Sec. 7403. (1) A person shall not knowingly or intention-
23 ally possess a controlled substance, a controlled substance anal-
24 ogue, or a prescription form unless the controlled substance,
25 controlled substance analogue, or prescription form was obtained
26 directly from, or pursuant to, a valid prescription or order of a
27 practitioner while acting in the course of the practitioner's

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1 professional practice, or except as otherwise authorized by this
2 article.

3 (2) A person who violates this section as to:

4 (a) A controlled substance classified in schedule 1 or 2
5 that is a narcotic drug or a drug described in section
6 7214(a)(iv), and:

7 (i) Which is in an amount of 650 grams or more of any mix-
8 ture containing that substance is guilty of a felony and shall be
9 imprisoned for life except as otherwise provided in this
10 subparagraph. A person convicted of violating this subparagraph
11 may be punished as provided by law by imposing a sentence of
12 imprisonment for any term of years but not less than 25 years if
13 any of the following apply:

14 (A) The person is within the jurisdiction of the circuit
15 court under section 606 of the revised judicature act of 1961,
16 1961 PA 236, MCL 600.606, or section 4 of chapter XIIIA of the
17 probate code of 1939, 1939 PA 288, MCL 712A.4.

18 (B) The person is being sentenced under section 18(1)(n) of
19 chapter XIIIA of the probate code of 1939, 1939 PA 288,
20 MCL 712A.18.

21 (ii) Which is in an amount of 225 grams or more, but less
22 than 650 grams, of any mixture containing that substance is
23 guilty of a felony and shall be imprisoned for not less than 20
24 years nor more than 30 years.

25 (iii) Which is in an amount of 50 grams or more, but less
26 than 225 grams, of any mixture containing that substance is

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1 guilty of a felony and shall be imprisoned for not less than 10
2 years nor more than 20 years.

3 (iv) Which is in an amount of 25 grams or more, but less
4 than 50 grams of any mixture containing that substance is guilty
5 of a felony and shall be imprisoned for not less than 1 year and
6 not more than 4 years, and may be fined not more than \$25,000.00
7 or placed on probation for life.

8 (v) Which is in an amount less than 25 grams of any mixture
9 containing that substance is guilty of a felony punishable by
10 imprisonment for not more than 4 years or a fine of not more than
11 \$25,000.00, or both.

12 (b) Either of the following:

13 (i) A substance described in section 7212(1)(G) OR
14 7214(c)(ii) is guilty of a felony punishable by imprisonment for
15 not more than 10 years or a fine of not more than \$15,000.00, or
16 both.

17 (ii) A controlled substance classified in schedule 1, 2, 3,
18 or 4, except a controlled substance for which a penalty is pre-
19 scribed in subdivision (a), (b)(i), (c), or (d), or a controlled
20 substance analogue is guilty of a felony punishable by imprison-
21 ment for not more than 2 years or a fine of not more than
22 \$2,000.00, or both.

23 (c) Lysergic acid diethylamide, peyote, mescaline, dimethyl-
24 tryptamine, psilocyn, psilocybin, or a controlled substance clas-
25 sified in schedule 5 is guilty of a misdemeanor punishable by
26 imprisonment for not more than 1 year or a fine of not more than
27 \$2,000.00, or both.

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1 (d) Marihuana is guilty of a misdemeanor punishable by
2 imprisonment for not more than 1 year or a fine of not more than
3 \$2,000.00, or both.

4 (e) A prescription form is guilty of a misdemeanor punish-
5 able by imprisonment for not more than 1 year or a fine of not
6 more than \$1,000.00, or both.

7 (3) The court may depart from the minimum term of imprison-
8 ment authorized under subsection (2)(a)(ii), (iii), or (iv) if
9 the court finds on the record that there are substantial and com-
10 pelling reasons to do so. In addition, if any of the following
11 apply, the court may depart from the minimum term of imprisonment
12 authorized under subsection (2)(a)(ii), (iii), or (iv) if the
13 individual has not previously been convicted of a felony or an
14 assaultive crime and has not been convicted of another felony or
15 assaultive crime arising from the same transaction as the viola-
16 tion of this section:

17 (a) The person is within the jurisdiction of the circuit
18 court under section 606 of the revised judicature act of 1961,
19 1961 PA 236, MCL 600.606, or section 4 of chapter XIIIA of the
20 probate code of 1939, 1939 PA 288, MCL 712A.4.

21 (b) The person is being sentenced under section 18(1)(n) of
22 chapter XIIIA of the probate code of 1939, 1939 PA 288,
23 MCL 712A.18.

24 (4) As used in subsection (3), "assaultive crime" means a
25 violation of sections 81 to 90 of the Michigan penal code, 1931
26 PA 328, MCL 750.81 to 750.90.

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1 Sec. 7404. (1) A person shall not use a controlled
2 substance or controlled substance analogue unless the substance
3 was obtained directly from, or pursuant to, a valid prescription
4 or order of a practitioner while acting in the course of the
5 practitioner's professional practice, or except as otherwise
6 authorized by this article.

7 (2) A person who violates this section as to:

8 (a) A controlled substance classified in schedule 1 or 2
9 ~~is~~ AS a narcotic drug or a drug described in section 7212(1)(G)
10 OR 7214(a)(iv) or (c)(ii) is guilty of a misdemeanor punishable
11 by imprisonment for not more than 1 year ~~,~~ or a fine of not
12 more than \$2,000.00, or both.

13 (b) A controlled substance classified in schedule 1, 2, 3,
14 or 4, except a controlled substance for which a penalty is pre-
15 scribed in subdivision (a), (c), or (d), or a controlled sub-
16 stance analogue, is guilty of a misdemeanor ~~,~~ punishable by
17 imprisonment for not more than 1 year ~~,~~ or a fine of not more
18 than \$1,000.00, or both.

19 (c) Lysergic acid diethylamide, peyote, mescaline, dimethyl-
20 tryptamine, psilocyn, psilocybin, or a controlled substance clas-
21 sified in schedule 5, is guilty of a misdemeanor ~~,~~ punishable
22 by imprisonment for not more than 6 months ~~,~~ or a fine of not
23 more than \$500.00, or both.

24 (d) Marihuana, is guilty of a misdemeanor ~~,~~ punishable by
25 imprisonment for not more than 90 days ~~,~~ or a fine of not more
26 than \$100.00, or both.

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- 1 Enacting section 1. This amendatory act takes effect
- 2 January 1, 2003.