

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5174

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending sections 16 and 18 (MCL 750.16 and 750.18), section
16 as amended by 2002 PA 672.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 16. ~~A person who fraudulently adulterates, for the~~
2 ~~purpose of sale, any drug or medicine so as to render the drug or~~
3 ~~medicine injurious to health is guilty of a misdemeanor~~
4 ~~punishable by imprisonment for not more than 1 year or a fine of~~
5 ~~not more than \$1,000.00.~~

6 (1) Except as otherwise provided in this section, a person
7 who knowingly or recklessly commits any of the following actions
8 is guilty of a felony punishable by imprisonment for not more
9 than 2 years or a fine of not more than \$1,000.00, or both:

10 (a) Adulterates, misbrands, removes, or substitutes a drug

1 or medicine so as to render that drug or medicine injurious to
2 health.

3 (b) Sells, offers for sale, possesses for sale, causes to be
4 sold, or manufactures for sale a drug or medicine that has been
5 adulterated, misbranded, removed, or substituted so as to render
6 it injurious to health.

7 (2) A person who violates subsection (1), which violation
8 results in personal injury, is guilty of a felony punishable by
9 imprisonment for not more than 4 years or a fine of not more than
10 \$4,000.00, or both.

11 (3) A person who violates subsection (1), which violation
12 results in serious impairment of a body function, is guilty of a
13 felony punishable by imprisonment for not more than 5 years or a
14 fine of not more than \$5,000.00, or both.

15 (4) A person who violates subsection (1), which violation
16 results in death, is guilty of a felony punishable by
17 imprisonment for not more than 15 years or a fine of not more
18 than \$20,000.00, or both.

19 (5) A person who violates subsection (1) with the intent to
20 kill or to cause serious impairment of a body function of 2 or
21 more individuals, which violation results in death, is guilty of
22 a felony punishable by imprisonment for life without possibility
23 of parole or life without possibility of parole and a fine of not
24 more than \$40,000.00. It is not a defense to a charge under this
25 subsection that the person did not intend to kill a specific
26 individual or did not intend to cause serious impairment of a
27 body function of 2 or more specific individuals.

1 (6) As used in this section, "serious impairment of a body
2 function" means that phrase as defined in section 58c of the
3 Michigan vehicle code, 1949 PA 300, MCL 257.58c.

4 (7) This section does not prohibit an individual from being
5 charged with, convicted of, or punished for any other violation
6 of law that is committed by that individual while violating this
7 section.

8 Sec. 18. (1) ~~Adulterating drugs or medicines so as to~~
9 ~~injuriously affect quality~~ Any person who shall, except for the
10 ~~purpose of compounding in the necessary preparation of medicine,~~
11 **Except for the purpose of compounding in the necessary**
12 **preparation of medicine, a person shall not knowingly or**
13 **recklessly** mix, color, stain, or powder, or order or permit ~~any~~
14 ~~other~~ **another** person to mix, color, stain, or powder, ~~any~~ a
15 drug or medicine with ~~any~~ **an** ingredient or ~~ingredients or~~
16 ~~materials~~ **material** so as to ~~affect~~ injuriously **affect** the
17 quality or potency of ~~such~~ **the** drug or medicine. ~~, with intent~~
18 ~~to sell the same; and any person who shall~~

19 (2) **A person shall not sell, or offer for sale, any such**
20 **possess for sale, cause to be sold, or manufacture for sale a**
21 drug or medicine ~~so~~ mixed, colored, stained, or powdered ~~,~~
22 ~~shall be guilty of a misdemeanor~~ **in the manner proscribed in**
23 **subsection (1).**

24 (3) **Except as otherwise provided in this section, a person**
25 **who violates subsection (1) or (2) is guilty of a felony**
26 **punishable by imprisonment for not more than 2 years or a fine of**
27 **not more than \$1,000.00, or both.**

1 (4) A person who violates subsection (1) or (2), which
2 violation results in personal injury, is guilty of a felony
3 punishable by imprisonment for not more than 4 years or a fine of
4 not more than \$4,000.00, or both.

5 (5) A person who violates subsection (1) or (2), which
6 violation results in serious impairment of a body function, is
7 guilty of a felony punishable by imprisonment for not more than 5
8 years or a fine of not more than \$5,000.00, or both.

9 (6) A person who violates subsection (1) or (2), which
10 violation results in death, is guilty of a felony punishable by
11 imprisonment for not more than 15 years or a fine of not more
12 than \$20,000.00, or both.

13 (7) A person who violates subsection (1) or (2) with the
14 intent to kill or to cause serious impairment of a body function
15 of 2 or more individuals, which violation results in death, is
16 guilty of a felony punishable by imprisonment for life without
17 possibility of parole or life without possibility of parole and a
18 fine of not more than \$40,000.00. It is not a defense to a
19 charge under this subsection that the person did not intend to
20 kill a specific individual or did not intend to cause serious
21 impairment of a body function of 2 or more specific individuals.

22 (8) As used in this section, "serious impairment of a body
23 function" means that phrase as defined in section 58c of the
24 Michigan vehicle code, 1949 PA 300, MCL 257.58c.

25 (9) This section does not prohibit an individual from being
26 charged with, convicted of, or punished for any other violation
27 of law that is committed by that individual while violating this

1 **section.**

2 Enacting section 1. This amendatory act takes effect 90
3 days after it is enacted.