

# SENATE BILL No. 649

August 13, 2003, Introduced by Senators BIRKHOLZ, PATTERSON, BISHOP, KUIPERS, SCHAUER, GEORGE, JELINEK, McMANUS and HARDIMAN and referred to the Committee on Judiciary.

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 7401c (MCL 333.7401c), as added by 2000 PA 314.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 7401c. (1) A person shall not do any of the  
2 following:

3       (a) Own, possess, or use a vehicle, building, structure,  
4 place, or area that he or she knows or has reason to know is to  
5 be used as a location to manufacture a controlled substance in  
6 violation of section 7401 or a counterfeit substance or a  
7 controlled substance analogue in violation of section 7402.

8       (b) Own or possess any chemical or any laboratory equipment  
9 that he or she knows or has reason to know is to be used for the  
10 purpose of manufacturing a controlled substance in violation of

1 section 7401 or a counterfeit substance or a controlled substance  
2 analogue in violation of section 7402.

3 (c) Provide any chemical or laboratory equipment to another  
4 person knowing or having reason to know that the other person  
5 intends to use that chemical or laboratory equipment for the  
6 purpose of manufacturing a controlled substance in violation of  
7 section 7401 or a counterfeit substance or a controlled substance  
8 analogue in violation of section 7402.

9 (2) A person who violates this section is guilty of a felony  
10 punishable as follows:

11 (a) Except as provided in subdivisions (b) to ~~(e)~~ (f), by  
12 imprisonment for not more than 10 years or a fine of not more  
13 than \$100,000.00, or both.

14 (b) If the violation is committed in the presence of a minor,  
15 by imprisonment for not more than 20 years or a fine of not more  
16 than \$100,000.00, or both.

17 (c) If the violation involves the unlawful generation,  
18 treatment, storage, or disposal of a hazardous waste, by  
19 imprisonment for not more than 20 years or a fine of not more  
20 than \$100,000.00, or both.

21 (d) If the violation occurs within 500 feet of a residence,  
22 business establishment, school property, or church or other house  
23 of worship, by imprisonment for not more than 20 years or a fine  
24 of not more than \$100,000.00, or both.

25 (e) If the violation involves the possession, placement, or  
26 use of a firearm or any other device designed or intended to be  
27 used to injure another person, by imprisonment for not more than

1 25 years or a fine of not more than \$100,000.00, or both.

2 (f) If the violation involves or is intended to involve the  
3 manufacture of a substance described in section 7214(c)(ii), by  
4 imprisonment for not more than 20 years or a fine of not more  
5 than \$25,000.00, or both.

6 (3) This section does not apply to a violation involving only  
7 a substance described in section 7214(a)(iv) or marihuana, or  
8 both.

9 (4) This section does not prohibit the person from being  
10 charged with, convicted of, or punished for any other violation  
11 of law committed by that person while violating or attempting to  
12 violate this section.

13 (5) A term of imprisonment imposed under this section may be  
14 served consecutively to any other term of imprisonment imposed  
15 for a violation of law arising out of the same transaction.

16 (6) The court may, as a condition of sentence, order a person  
17 convicted of a violation punishable under subsection (2)(c) to  
18 pay response activity costs arising out of the violation.

19 (7) As used in this section:

20 (a) "Hazardous waste" means that term as defined in section  
21 11103 of the natural resources and environmental protection act,  
22 1994 PA 451, MCL 324.11103.

23 (b) "Laboratory equipment" means any equipment, device, or  
24 container used or intended to be used in the process of  
25 manufacturing a controlled substance, counterfeit substance, or  
26 controlled substance analogue.

27 (c) "Manufacture" means the production, preparation,

1 propagation, compounding, conversion, or processing of a  
2 controlled substance, directly or indirectly by extraction from  
3 substances of natural origin, or independently by means of  
4 chemical synthesis, or by a combination of extraction and  
5 chemical synthesis. Manufacture does not include any of the  
6 following:

7 (i) The packaging or repackaging of the substance or labeling  
8 or relabeling of its container.

9 (ii) The preparation or compounding of a controlled substance  
10 by any of the following:

11 (A) A practitioner as an incident to the practitioner's  
12 administering or dispensing of a controlled substance in the  
13 course of his or her professional practice.

14 (B) A practitioner, or by the practitioner's authorized agent  
15 under his or her supervision, for the purpose of, or as an  
16 incident to, research, teaching, or chemical analysis and not for  
17 sale.

18 (d) "Minor" means an individual less than 18 years of age.

19 (e) "Response activity costs" means that term as defined in  
20 section 20101 of the natural resources and environmental  
21 protection act, 1994 PA 451, MCL 324.20101.

22 (f) "School property" means that term as defined in section  
23 7410.

24 (g) "Vehicle" means that term as defined in section 79 of the  
25 Michigan vehicle code, 1949 PA 300, MCL 257.79.