

HOUSE BILL No. 5470

December 1, 2005, Introduced by Reps. Lemmons, III, Lemmons, Jr., Tobocman, Leland, Kolb, Drolet, Zelenko, Cushingberry and Cheeks and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 7212, 7214, 7403, and 7404 (MCL 333.7212, 333.7214, 333.7403, and 333.7404), sections 7212, 7403, and 7404 as amended by 2002 PA 710 and section 7214 as amended by 1982 PA 352, and by adding sections 7337, 7338, 7338a, and 7338b; and to repeal acts and parts of acts.

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

1 isomers, esters, ethers, and salts is possible within the
 2 specific chemical designation:

3 Acetylmethadol	Difenoxin	Noracymethadol
4 Allylprodine	Dimenoxadol	Norlevorphanol
5 Alpha-acetylmethadol	Dimepheptanol	Normethadone
6 Alphameprodine	Dimethylthiambutene	Norpipanone
7 Alphamethadol	Dioxaphetyl butyrate	Phenadoxone
8 Benzethidine	Dipipanone	Phenampromide
9 Betacetylmethadol	Ethylmethylthiambutene	Phenomorphane
10 Betameprodine	Etonitazene	Phenoperidine
11 Betamethadol	Etoxadine	Piritramide
12 Betaprodine	Furethidine	Proheptazine
13 Clonitazene	Hydroxypethidine	Properidine
14 Dextromoramide	Ketobemidone	Propiram
15 Diampromide	Levomoramide	Racemoramide
16 Diethylthiambutene	Levophenacetylmorphine	Trimeperidine
17 Morpheridine		
18		

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

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

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:

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

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

1 1-(1-(2-thienyl)cyclohexyl) piperidine)
2 2-thienyl analog of phencyclidine; TPCP

3 (d) ~~Except as provided in subsection (2), synthetic~~
4 **SYNTHETIC** equivalents of the substances contained in the plant,
5 or in the resinous extractives of cannabis and synthetic
6 substances, derivatives, and their isomers with similar chemical
7 structure or pharmacological activity, or both, such as the
8 following, are included in schedule 1:

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

11 (ii) Δ^6 cis or trans tetrahydrocannabinol, and their optical
12 isomers.

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

15 (e) Compounds of structures of substances referred to in
16 subdivision (d), regardless of numerical designation of atomic
17 positions, are included.

18 (f) Gamma-hydroxybutyrate and any isomer, salt, or salt of
19 isomer of gamma-hydroxybutyrate.

20 Some trade and other names:

21 Sodium oxybate

22 4-hydroxybutanoic acid monosodium salt

23 (g) 3,4-methylenedioxymethamphetamine.

24 Some trade and other names:

25 Ecstasy

26 MDMA

~~———— (2) Marihuana and the substances described in subsection (1)~~
~~(d) and (e) in schedule 1 shall be regulated as provided in~~
~~schedule 2, if they are dispensed in the manner provided in~~
~~sections 7335 and 7336.~~

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

Sec. 7214. The following controlled substances are included
in schedule 2:

(a) Any of the following substances, except those narcotic
drugs listed in other schedules, whether produced directly or
indirectly by extraction from substances of vegetable origin, or
independently by means of chemical synthesis, or by combination
of extraction and chemical synthesis:

(i) Opium and opiate, and any salt, compound, derivative, or
preparation of opium or opiate excluding nalaxone and its salts,
and excluding naltrexone and its salts, but including the
following:

Raw opium	Etorphine hydrochloride
Opium extracts	Hydrocodone
Opium Fluid-extracts	Hydromorphone
Powdered opium	Metopon
Granulated opium	Morphine
Tincture of opium	Oxycodone
Codeine	Oxymorphone
Ethylmorphine	Thebaine

(ii) A salt, compound, derivative, or preparation thereof
which is chemically equivalent to or identical with a substance
referred to in subdivision (a), except that these substances do
not include the isoquinoline alkaloids of opium.

(iii) Opium poppy, poppy straw, and concentrate of poppy

1 straw, the crude extract of poppy straw in either liquid, solid,
 2 or powder form, which contains the phenanthrene alkaloids of the
 3 opium poppy.

4 (iv) Coca leaves and any salt, compound, derivative, or
 5 preparation thereof which is chemically equivalent to or
 6 identical with any of these substances, except that the
 7 substances do not include decocainized coca leaves or extraction
 8 of coca leaves which extractions do not contain cocaine or
 9 ecgonine. The substances include cocaine, its salts,
 10 stereoisomers, and salts of stereoisomers when the existence of
 11 the salts, stereoisomers, and salts of stereoisomers is possible
 12 within the specific chemical designation.

13 (b) Any of the following opiates, including their isomers,
 14 esters, ethers, salts, and salts of isomers, when the existence
 15 of these isomers, esters, ethers, and salts is possible within
 16 the specific chemical designation:

17	Alphaprodine	Fentanyl
18	Anileridine	Isomethadone
19	Bezitramide	Levomethorphan
20	Dihydrocodeine	Levorphanol
21	Diphenoxylate	Metazocine
22		Methadone
23	Methadone-Intermediate, 4-cyano-2dimethylamino-4, 4-diphenyl	
24	butane	
25	Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-	
26	diphenylpropane-carboxylic acid	
27		Pethidine
28	Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine	
29	Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate	
30	Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-	
31	carboxylic acid	
32	Phenazocine	Racemethorphan
33	Piminodine	Racemorphan

(c) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having potential for abuse associated with a stimulant effect on the nervous system:

(i) Amphetamine, its salts, optical isomers, and salts of its optical isomers.

(ii) Any substance which contains any quantity of methamphetamine, including its salts, stereoisomers, and salts of stereoisomers.

(iii) Phenmetrazine and its salts.

(iv) Methylphenidate and its salts.

(d) Any material, compound, mixture, or preparation, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation as listed in schedule 2, which contains any quantity of the following substances having a potential for abuse associated with the depressant effect on the central nervous system: methaqualone, amobarbital, pentobarbital, or secobarbital; or, any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt thereof in combination with itself, with another, or with 1 or more other controlled substances.

~~—— (e) Marihuana, but only for use as provided in sections 7335 and 7336.~~

SEC. 7337. AS USED IN THIS SECTION AND SECTIONS 7338, 7338A, AND 7338B:

(A) "DEBILITATING MEDICAL CONDITION" MEANS 1 OR MORE OF THE

1 FOLLOWING:

2 (i) CANCER, GLAUCOMA, POSITIVE STATUS FOR HUMAN
3 IMMUNODEFICIENCY VIRUS, OR ACQUIRED IMMUNE DEFICIENCY SYNDROME.

4 (ii) A CHRONIC OR DEBILITATING DISEASE OR MEDICAL CONDITION
5 THAT PRODUCES 1 OR MORE OF THE FOLLOWING: CACHEXIA OR WASTING
6 SYNDROME; SEVERE PAIN; SEVERE NAUSEA; SEIZURES, INCLUDING THOSE
7 CHARACTERISTIC OF EPILEPSY; OR SEVERE AND PERSISTENT MUSCLE
8 SPASMS, INCLUDING THOSE CHARACTERISTIC OF MULTIPLE SCLEROSIS OR
9 CROHN'S DISEASE.

10 (iii) ANY OTHER SIMILAR MEDICAL CONDITION CERTIFIED BY RULES
11 PROMULGATED BY THE DEPARTMENT.

12 (B) "MEDICAL USE" MEANS THE ACQUISITION, POSSESSION,
13 CULTIVATION, USE, TRANSFER, OR TRANSPORTATION OF MARIHUANA OR
14 PARAPHERNALIA RELATING TO THE ADMINISTRATION OF MARIHUANA TO
15 ALLEVIATE THE SYMPTOMS OR EFFECTS OF A QUALIFYING PATIENT'S
16 DEBILITATING MEDICAL CONDITION.

17 (C) "PHYSICIAN" MEANS AN INDIVIDUAL LICENSED AS A PHYSICIAN
18 UNDER PART 170 OR AN OSTEOPATHIC PHYSICIAN UNDER PART 175.

19 (D) "PRIMARY CAREGIVER" MEANS A PERSON WHO IS AT LEAST 18
20 YEARS OLD AND WHO HAS AGREED TO UNDERTAKE RESPONSIBILITY FOR
21 MANAGING THE WELL-BEING OF A PERSON WITH RESPECT TO THE MEDICAL
22 USE OF MARIHUANA.

23 (E) "QUALIFYING PATIENT" MEANS A PERSON WHO HAS BEEN
24 DIAGNOSED BY A PHYSICIAN AS HAVING A DEBILITATING MEDICAL
25 CONDITION.

26 (F) "WRITTEN CERTIFICATION" MEANS A PHYSICIAN'S STATEMENT
27 UNDER SECTION 7338.

1 SEC. 7338. (1) A PHYSICIAN MAY ISSUE TO A PATIENT WHO IS
2 UNDER HIS OR HER CARE A WRITTEN STATEMENT CERTIFYING THAT, IN THE
3 PHYSICIAN'S PROFESSIONAL MEDICAL OPINION, THE PATIENT HAS A
4 DEBILITATING MEDICAL CONDITION AND THE POTENTIAL BENEFITS OF THE
5 MEDICAL USE OF MARIHUANA WOULD LIKELY OUTWEIGH THE RISK TO THE
6 PATIENT OF THE MEDICAL USE OF MARIHUANA. A WRITTEN CERTIFICATION
7 SHALL NOT BE ISSUED UNDER THIS SUBSECTION UNLESS THE PHYSICIAN
8 HAS MADE A FULL ASSESSMENT OF THE PATIENT'S MEDICAL HISTORY AND
9 MEDICAL CONDITION, IN THE COURSE OF A BONA FIDE PHYSICIAN-PATIENT
10 RELATIONSHIP.

11 (2) A PHYSICIAN SHALL NOT BE SUBJECT TO ARREST OR
12 PROSECUTION, PENALIZED IN ANY MANNER, OR DENIED ANY RIGHT OR
13 PRIVILEGE FOR PROVIDING WRITTEN CERTIFICATION UNDER SUBSECTION
14 (1).

15 (3) EXCEPT AS PROVIDED IN SECTION 7338B, A QUALIFYING
16 PATIENT WHO HAS IN HIS OR HER POSSESSION A WRITTEN CERTIFICATION
17 IS NOT SUBJECT TO ARREST, PROSECUTION, OR OTHER PENALTY FOR THE
18 MEDICAL USE OF MARIHUANA, UNLESS THE AMOUNT OF MARIHUANA
19 POSSESSED BY THE QUALIFIED PATIENT AND HIS OR HER PRIMARY
20 CAREGIVERS EXCEEDS THE AMOUNT REASONABLY NECESSARY TO ENSURE THE
21 UNINTERRUPTED AVAILABILITY OF MARIHUANA FOR PURPOSES OF
22 ALLEVIATING THE SYMPTOMS OR EFFECTS OF THE QUALIFYING PATIENT'S
23 DEBILITATING MEDICAL CONDITION OR ITS TREATMENT. FOR PURPOSES OF
24 THIS SUBSECTION, THERE IS A REBUTTABLE PRESUMPTION THAT THE
25 POSSESSION OF 3 MATURE MARIHUANA PLANTS OR 4 IMMATURE MARIHUANA
26 PLANTS, OR 3 OUNCES OF DRIED LEAVES OR FLOWERS OF A MARIHUANA
27 PLANT, DOES NOT EXCEED THE REASONABLY NECESSARY AMOUNT ALLOWED

1 UNDER THIS SUBSECTION.

2 (4) SUBSECTION (3) DOES NOT APPLY TO A MINOR UNDER THE AGE
3 OF 18 YEARS, UNLESS ALL OF THE FOLLOWING APPLY:

4 (A) THE MINOR'S PHYSICIAN HAS EXPLAINED THE POTENTIAL RISKS
5 AND BENEFITS OF THE MEDICAL USE OF MARIHUANA TO THE MINOR AND TO
6 THE MINOR'S PARENT OR LEGAL GUARDIAN.

7 (B) THE MINOR'S PARENT OR LEGAL GUARDIAN OF THE MINOR
8 CONSENTS IN WRITING TO DO ALL OF THE FOLLOWING:

9 (i) ALLOW THE MINOR'S MEDICAL USE OF MARIHUANA.

10 (ii) SERVE AS THE MINOR'S PRIMARY CAREGIVER.

11 (iii) CONTROL THE ACQUISITION OF THE MARIHUANA, THE DOSAGE,
12 AND THE FREQUENCY OF THE MEDICAL USE OF MARIHUANA BY THE MINOR.

13 (5) IF THE ACQUISITION, POSSESSION, CULTIVATION,
14 TRANSPORTATION, OR ADMINISTRATION OF MARIHUANA BY A QUALIFYING
15 PATIENT IS NOT PRACTICABLE, THE LEGAL PROTECTIONS ESTABLISHED BY
16 THIS SECTION FOR A QUALIFYING PATIENT EXTEND TO THE QUALIFYING
17 PATIENT'S PRIMARY CAREGIVERS, IF THE PRIMARY CAREGIVERS' ACTIONS
18 ARE NECESSARY FOR THE QUALIFYING PATIENT'S MEDICAL USE OF
19 MARIHUANA.

20 (6) ANY PROPERTY OR INTEREST IN PROPERTY THAT IS POSSESSED,
21 OWNED, OR USED IN CONNECTION WITH THE MEDICAL USE OF MARIHUANA
22 SHALL NOT BE HARMED, NEGLECTED, INJURED, OR DESTROYED WHILE IN
23 THE POSSESSION OF STATE OR LOCAL LAW ENFORCEMENT OFFICIALS,
24 EXCEPT THAT LAW ENFORCEMENT AGENCIES SEIZING LIVE PLANTS AS
25 EVIDENCE ARE NOT RESPONSIBLE FOR THE CARE AND MAINTENANCE OF
26 MARIHUANA PLANTS. ANY SUCH PROPERTY OR PROPERTY INTEREST SHALL
27 NOT BE FORFEITED UNDER STATE OR LOCAL LAW PROVIDING FOR THE

1 FORFEITURE OF PROPERTY OTHER THAN AS A SENTENCE IMPOSED AFTER
2 CONVICTION OF A CRIMINAL OFFENSE OR ENTRY OF A PLEA OF GUILTY TO
3 A CRIMINAL OFFENSE. MARIHUANA, MARIHUANA PARAPHERNALIA, OR OTHER
4 PROPERTY SEIZED FROM A QUALIFYING PATIENT OR PRIMARY CAREGIVERS
5 IN CONNECTION WITH THE CLAIMED MEDICAL USE OF MARIHUANA SHALL BE
6 RETURNED IMMEDIATELY UPON THE DETERMINATION BY A COURT OR
7 PROSECUTING ATTORNEY THAT THE QUALIFYING PATIENT OR PRIMARY
8 CAREGIVERS ARE ENTITLED TO THE PROTECTIONS OF THIS SECTION, AS
9 MAY BE EVIDENCED BY A DECISION NOT TO PROSECUTE, THE DISMISSAL OF
10 CHARGES, OR AN ACQUITTAL.

11 (7) A PERSON SHALL NOT BE SUBJECT TO ARREST OR PROSECUTION
12 FOR CONSTRUCTIVE POSSESSION, CONSPIRACY, OR ANY OTHER OFFENSE FOR
13 SIMPLY BEING IN THE PRESENCE OR VICINITY OF THE MEDICAL USE OF
14 MARIHUANA AS PERMITTED UNDER THIS SECTION.

15 SEC. 7338A. A PERSON AND A PERSON'S PRIMARY CAREGIVERS MAY
16 ASSERT THE MEDICAL USE OF MARIHUANA AS A DEFENSE TO ANY
17 PROSECUTION INVOLVING MARIHUANA. THIS DEFENSE SHALL BE PRESUMED
18 VALID IF THE EVIDENCE SHOWS BOTH OF THE FOLLOWING:

19 (A) THE PERSON'S MEDICAL RECORDS INDICATE, OR A PHYSICIAN
20 HAS STATED THAT, IN THE PHYSICIAN'S PROFESSIONAL OPINION, AFTER
21 HAVING COMPLETED A FULL ASSESSMENT OF THE PERSON'S MEDICAL
22 HISTORY AND CURRENT MEDICAL CONDITION MADE IN THE COURSE OF A
23 BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP, THE POTENTIAL BENEFITS
24 OF THE MEDICAL USE OF MARIHUANA WOULD LIKELY OUTWEIGH THE HEALTH
25 RISKS FOR THE PERSON.

26 (B) THE PERSON AND THE PERSON'S PRIMARY CAREGIVERS WERE
27 COLLECTIVELY IN POSSESSION OF A QUANTITY OF MARIHUANA THAT WAS

1 NOT MORE THAN WAS REASONABLY NECESSARY TO ENSURE THE
2 UNINTERRUPTED AVAILABILITY OF MARIHUANA FOR THE PURPOSE OF
3 ALLEVIATING THE SYMPTOMS OR EFFECTS OF THE PERSON'S MEDICAL
4 CONDITION.

5 SEC. 7338B. (1) THE AUTHORIZATION FOR THE MEDICAL USE OF
6 MARIHUANA UNDER SECTIONS 7337 TO 7337A DOES NOT APPLY TO ANY OF
7 THE FOLLOWING:

8 (A) THE MEDICAL USE OF MARIHUANA THAT ENDANGERS THE HEALTH
9 OR WELL-BEING OF ANOTHER PERSON, SUCH AS DRIVING OR OPERATING
10 HEAVY MACHINERY WHILE UNDER THE INFLUENCE OF MARIHUANA.

11 (B) THE SMOKING OF MARIHUANA IN ANY OF THE FOLLOWING PLACES:

12 (i) A SCHOOL BUS, PUBLIC BUS, OR OTHER PUBLIC VEHICLE.

13 (ii) THE WORKPLACE OF ONE'S EMPLOYMENT.

14 (iii) ANY SCHOOL GROUNDS.

15 (iv) ANY CORRECTIONAL FACILITY.

16 (v) ANY PUBLIC PARK, PUBLIC BEACH, PUBLIC RECREATION CENTER,
17 OR YOUTH CENTER.

18 (C) THE USE OF MARIHUANA BY A QUALIFYING PATIENT, PRIMARY
19 CAREGIVER, OR ANY OTHER PERSON FOR PURPOSES OTHER THAN MEDICAL
20 USE PERMITTED BY SECTIONS 7337 TO 7337A.

21 (2) A PERSON SHALL NOT FRAUDULENTLY REPRESENT TO A LAW
22 ENFORCEMENT OFFICIAL ANY FACT OR CIRCUMSTANCE RELATING TO THE
23 MEDICAL USE OF MARIHUANA TO AVOID ARREST OR PROSECUTION. A PERSON
24 WHO VIOLATES THIS SUBSECTION IS GUILTY OF A MISDEMEANOR
25 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 30 DAYS OR A FINE OF
26 NOT MORE THAN \$500.00, OR BOTH.

27 Sec. 7403. (1) A person shall not knowingly or intentionally

1 possess a controlled substance, a controlled substance analogue,
2 or a prescription form unless the controlled substance,
3 controlled substance analogue, or prescription form was obtained
4 directly from, or pursuant to, a valid prescription or order of a
5 practitioner while acting in the course of the practitioner's
6 professional practice, or except as otherwise authorized by this
7 article.

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

9 (a) A controlled substance classified in schedule 1 or 2
10 that is a narcotic drug or a drug described in section
11 7214(a)(iv), and:

12 (i) Which is in an amount of 1,000 grams or more of any
13 mixture containing that substance is guilty of a felony
14 punishable by imprisonment for life or any term of years or a
15 fine of not more than \$1,000,000.00, or both.

16 (ii) Which is in an amount of 450 grams or more, but less
17 than 1,000 grams, of any mixture containing that substance is
18 guilty of a felony punishable by imprisonment for not more than
19 30 years or a fine of not more than \$500,000.00, or both.

20 (iii) Which is in an amount of 50 grams or more, but less than
21 450 grams, of any mixture containing that substance is guilty of
22 a felony punishable by imprisonment for not more than 20 years or
23 a fine of not more than \$250,000.00, or both.

24 (iv) Which is in an amount of 25 grams or more, but less than
25 50 grams of any mixture containing that substance is guilty of a
26 felony punishable by imprisonment for not more than 4 years or a
27 fine of not more than \$25,000.00, or both.

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

5 (b) Either of the following:

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

9 (ii) A controlled substance classified in schedule 1, 2, 3,
10 or 4, except a controlled substance for which a penalty is
11 prescribed in subdivision (a), (b)(i), (c), or (d), or a
12 controlled substance analogue is guilty of a felony punishable by
13 imprisonment for not more than 2 years or a fine of not more than
14 \$2,000.00, or both.

15 (c) Lysergic acid diethylamide, peyote, mescaline,
16 dimethyltryptamine, psilocyn, psilocybin, or a controlled
17 substance classified in schedule 5 is guilty of a misdemeanor
18 punishable by imprisonment for not more than 1 year or a fine of
19 not more than \$2,000.00, or both.

20 (d) Marihuana is guilty of a misdemeanor punishable by
21 imprisonment for not more than 1 year or a fine of not more than
22 \$2,000.00, or both.

23 (e) A prescription form is guilty of a misdemeanor
24 punishable by imprisonment for not more than 1 year or a fine of
25 not more than \$1,000.00, or both.

26 (3) If an individual was sentenced to lifetime probation
27 under subsection (2)(a)(iv) before ~~the effective date of the~~

1 ~~amendatory act that added this subsection~~ **APRIL 1, 2003** and the
2 individual has served 5 or more years of that probationary
3 period, the probation officer for that individual may recommend
4 to the court that the court discharge the individual from
5 probation. If an individual's probation officer does not
6 recommend discharge as provided in this subsection, with notice
7 to the prosecutor, the individual may petition the court seeking
8 resentencing under the court rules. The court may discharge an
9 individual from probation as provided in this subsection. An
10 individual may file more than 1 motion seeking resentencing under
11 this subsection.

12 **(4) THIS SECTION DOES NOT APPLY TO THE MEDICAL USE OF**
13 **MARIHUANA ALLOWED UNDER SECTIONS 7337 TO 7338B.**

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

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

21 (a) A controlled substance classified in schedule 1 or 2 as
22 a narcotic drug or a drug described in section 7212(1)(g) or
23 7214(a)(iv) or (c)(ii) is guilty of a misdemeanor punishable by
24 imprisonment for not more than 1 year or a fine of not more than
25 \$2,000.00, or both.

26 (b) A controlled substance classified in schedule 1, 2, 3,
27 or 4, except a controlled substance for which a penalty is

1 prescribed in subdivision (a), (c), or (d), or a controlled
2 substance analogue, is guilty of a misdemeanor punishable by
3 imprisonment for not more than 1 year or a fine of not more than
4 \$1,000.00, or both.

5 (c) Lysergic acid diethylamide, peyote, mescaline,
6 dimethyltryptamine, psilocyn, psilocybin, or a controlled
7 substance classified in schedule 5, is guilty of a misdemeanor
8 punishable by imprisonment for not more than 6 months or a fine
9 of not more than \$500.00, or both.

10 (d) Marihuana, is guilty of a misdemeanor punishable by
11 imprisonment for not more than 90 days or a fine of not more than
12 \$100.00, or both.

13 **(3) THIS SECTION DOES NOT APPLY TO THE MEDICAL USE OF**
14 **MARIHUANA ALLOWED UNDER SECTIONS 7337 TO 7338B.**

15 Enacting section 1. Sections 7335 and 7336 of the public
16 health code, 1978 PA 368, MCL 333.7335 and 333.7336, are
17 repealed.