

**SUBSTITUTE FOR
HOUSE BILL NO. 5700**

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 7212, 7403, and 7404 (MCL 333.7212,
333.7403, and 333.7404), as amended by 2002 PA 710.

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:

8 Acetylmethadol Difenoxin Noracymethadol

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

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

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

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

33 2-Methylamino-1-phenylpropan-1-one
 34 Some trade and other names:
 35 Methcathinone
 36 Cat

1 Ephedrone
2 3, 4-methylenedioxy amphetamine
3 5-methoxy-3, 4-methylenedioxy
4 amphetamine
5 3, 4, 5-trimethoxy amphetamine
6 Bufotenine
7 Some trade and other names:
8 3-(B-dimethylaminoethyl)-5 hydroxyindole
9 3-(2-dimethylaminoethyl)-5 indolol
10 N,N-dimethylserotonin; 5-hydroxy-N-dimethyltryptamine
11 Mappine
12 2, 5-Dimethoxyamphetamine
13 Some trade or other names:
14 2, 5-Dimethoxy-a-methylphenethylamine; 2,5-DMA
15 4-Bromo-2, 5-Dimethoxyamphetamine
16 Some trade or other names:
17 4-bromo-2, 5 dimethoxy-a-methylphenethylamine; 4-bromo
18 2,5-DMA
19 Diethyltryptamine
20 Some trade and other names:
21 N,N-Diethyltryptamine; DET
22 Dimethyltryptamine
23 Some trade or other names:
24 DMT
25 4-methyl-2, 5-dimethoxyamphetamine
26 Some trade and other names:
27 4-methyl-2, 5-dimethoxy-a-methyl-phenethylamine
28 DOM, STP
29 4-methoxyamphetamine
30 Some trade or other names:
31 4-methoxy-a-methylphenethylamine; paramethoxy amphetamine;

1 PMA

2 Ibogaine

3 Some trade and other names:

4 7-Ethyl-6,6a,7,8,9,10,12,13

5 Octahydro-2-methoxy-6,9-methano-5H-

6 pyrido (1, 2:1, 2 azepino 4, 5-b) indole

7 tabernanthe iboga

8 Lysergic acid diethylamide

9 ~~Marihuana, except as otherwise provided in subsection (2)~~

10 Mecloqualone

11 Mescaline

12 Peyote

13 N-ethyl-3 piperidyl benzilate

14 N-methyl-3 piperidyl benzilate

15 Psilocybin

16 Psilocyn

17 **SALVIA DIVINORUM**

18 **SALVINORIN A**

19 Thiophene analog of phencyclidine

20 Some trade or other names:

21 1-(1-(2-thienyl)cyclohexyl) piperidine)

22 2-thienyl analog of phencyclidine; TCP

23 (d) ~~Except as provided in subsection (2), synthetic~~

24 **SYNTHETIC** equivalents of the substances contained in the plant,

25 or in the resinous extractives of cannabis and synthetic

26 substances, derivatives, and their isomers with similar chemical

27 structure or pharmacological activity, or both, such as the

28 following, are included in schedule 1:

29 (i) Δ^1 cis or trans tetrahydrocannabinol, and their optical

1 isomers.

2 (ii) \triangle^6 cis or trans tetrahydrocannabinol, and their optical
3 isomers.

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

6 (e) Compounds of structures of substances referred to in
7 subdivision (d), regardless of numerical designation of atomic
8 positions, are included.

9 (f) Gamma-hydroxybutyrate and any isomer, salt, or salt of
10 isomer of gamma-hydroxybutyrate.

11 Some trade and other names:

12 Sodium oxybate

13 4-hydroxybutanoic acid monosodium salt

14 (g) 3,4-methylenedioxymethamphetamine.

15 Some trade and other names:

16 Ecstasy

17 MDMA

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

22 (2) ~~(3)~~ For purposes of subsection (1), "isomer" includes
23 the optical, position, and geometric isomers.

24 Sec. 7403. (1) A person shall not knowingly or intentionally
25 possess a controlled substance, a controlled substance analogue,

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

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

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

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

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

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

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

27 (v) Which is in an amount less than 25 grams of any mixture

1 containing that substance is guilty of a felony punishable by
2 imprisonment for not more than 4 years or a fine of not more than
3 \$25,000.00, or both.

4 (b) Either of the following:

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

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

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

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

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

25 (3) If an individual was sentenced to lifetime probation
26 under subsection (2)(a)(iv) before ~~the effective date of the~~
27 ~~amendatory act that added this subsection~~ **APRIL 1, 2003** and the

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

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

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

18 (a) A controlled substance classified in schedule 1 or 2 as
19 a narcotic drug or a drug described in section 7212(1)(g) or
20 7214(a)(iv) or (c)(ii) 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 (b) A controlled substance classified in schedule 1, 2, 3,
24 or 4, except a controlled substance for which a penalty is
25 prescribed in subdivision (a), (c), or (d), or a controlled
26 substance analogue, is guilty of a misdemeanor punishable by
27 imprisonment for not more than 1 year or a fine of not more than

1 \$1,000.00, or both.

2 (c) Lysergic acid diethylamide, peyote, mescaline,
3 dimethyltryptamine, psilocyn, psilocybin, **SALVIA DIVINORUM**,
4 **SALVINORIN A**, or a controlled substance classified in schedule 5,
5 is guilty of a misdemeanor punishable by imprisonment for not
6 more than 6 months or a fine of not more than \$500.00, or both.

7 (d) Marihuana, is guilty of a misdemeanor punishable by
8 imprisonment for not more than 90 days or a fine of not more than
9 \$100.00, or both.