

**SUBSTITUTE FOR
HOUSE BILL NO. 6038**

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

| | | | |
|----|-----------------------|--------------------------|------------------|
| 19 | Acetorphine | Drotebanol | Morphine-N-Oxide |
| 20 | Acetyldihydrocodeine | Etorphine | Myrophine |
| 21 | Benzylmorphine | Heroin | Nicocodeine |
| 22 | Codeine methylbromide | Hydromorphanol | Nicomorphine |
| 23 | Codeine-N-Oxide | Methyldesorphine | Normorphine |
| 24 | Cyprenorphine | Methyldihydromorphine | Pholcodine |
| 25 | Desomorphine | Morphine methylbromide | Thebacon |
| 26 | Dihydromorphine | Morphine methylsulfonate | |

1 (c) Any material, compound, mixture, or preparation which
2 contains any quantity of the following hallucinogenic substances,
3 their salts, isomers, and salts of isomers, unless specifically
4 excepted, when the existence of these salts, isomers, and salts
5 of isomers is possible within the specific chemical designation:

6 2-Methylamino-1-phenylpropan-1-one

7 Some trade and other names:

8 Methcathinone

9 Cat

10 Ephedrone

11 3, 4-methylenedioxy amphetamine

12 5-methoxy-3, 4-methylenedioxy

13 amphetamine

14 3, 4, 5-trimethoxy amphetamine

15 Bufotenine

16 Some trade and other names:

17 3-(B-dimethylaminoethyl)-5 hydroxyindole

18 3-(2-dimethylaminoethyl)-5 indolol

19 N,N-dimethylserotonin; 5-hydroxy-N-dimethyltryptamine

20 Mappine

21 2, 5-Dimethoxyamphetamine

22 Some trade or other names:

23 2, 5-Dimethoxy-a-methylphenethylamine; 2,5-DMA

24 4-Bromo-2, 5-Dimethoxyamphetamine

25 Some trade or other names:

26 4-bromo-2, 5 dimethoxy-a-methylphenethylamine; 4-bromo

27 2,5-DMA

28 Diethyltryptamine

29 Some trade and other names:

- 1 N,N-Diethyltryptamine; DET
- 2 Dimethyltryptamine
- 3 Some trade or other names:
- 4 DMT
- 5 4-methyl-2, 5-dimethoxyamphetamine
- 6 Some trade and other names:
- 7 4-methyl-2, 5-dimethoxy- α -methyl-phenethylamine
- 8 DOM, STP
- 9 4-methoxyamphetamine
- 10 Some trade or other names:
- 11 4-methoxy- α -methylphenethylamine; paramethoxy amphetamine;
- 12 PMA
- 13 Ibogaine
- 14 Some trade and other names:
- 15 7-Ethyl-6,6a,7,8,9,10,12,13
- 16 Octahydro-2-methoxy-6,9-methano-5H-
- 17 pyrido (1, 2:1, 2 azepino 4, 5-b) indole
- 18 tabernanthe iboga
- 19 Lysergic acid diethylamide
- 20 Marihuana, except as otherwise provided in subsection (2)
- 21 Mecloqualone
- 22 Mescaline
- 23 Peyote
- 24 N-ethyl-3 piperidyl benzilate
- 25 N-methyl-3 piperidyl benzilate
- 26 Psilocybin
- 27 Psilocyn
- 28 Thiophene analog of phencyclidine
- 29 Some trade or other names:
- 30 1-(1-(2-thienyl)cyclohexyl) piperidine)
- 31 2-thienyl analog of phencyclidine; TCP

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

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

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

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

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

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

Some trade and other names:

Sodium oxybate

4-hydroxybutanoic acid monosodium salt

(g) 3,4-methylenedioxymethamphetamine **AND N-**
BENZYLPIPERAZINE.

Some trade and other names:

Ecstasy

1 MDMA

2 BZP

3 1-BENZYLPIPERAZINE

4 1-(PHENYLMETHYL)-PIPERAZINE

5 (H) ALL OF THE FOLLOWING:

6 (i) (6AR,10AR)-9-(HYDROXYMETHYL)-6,6-DIMETHYL-3-(2-
7 METHYLOCTAN-2-YL)-6A,7,10,10A-TETRAHYDROBENZO[C]CHROMEN-1-OL.

8 SOME TRADE AND OTHER NAMES:

9 HU-210

10 (ii) 2-[(1R,3S)-3-HYDROXYCYCLOHEXYL]-5-(2-METHYLOCTAN-2-
11 YL)PHENOL AND ITS SIDE CHAIN HOMOLOGUES.

12 SOME TRADE AND OTHER NAMES:

13 CP47,497

14 (iii) 1-PENTYL-3-(1-NAPHTHOYL)INDOLE.

15 SOME TRADE AND OTHER NAMES:

16 JWH-018

17 (iv) 1-BUTYL-3-(1-NAPHTHOYL)INDOLE.

18 SOME TRADE AND OTHER NAMES:

19 JWH-073

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

1 ~~sections 7335 and 7336.~~

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

4 Sec. 7403. (1) A person shall not knowingly or intentionally
5 possess a controlled substance, a controlled substance analogue,
6 or a prescription form unless the controlled substance,
7 controlled substance analogue, or prescription form was obtained
8 directly from, or pursuant to, a valid prescription or order of a
9 practitioner while acting in the course of the practitioner's
10 professional practice, or except as otherwise authorized by this
11 article.

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 1,000 grams or more of any
17 mixture containing that substance is guilty of a felony
18 punishable by imprisonment for life or any term of years or a
19 fine of not more than \$1,000,000.00, or both.

20 (ii) Which is in an amount of 450 grams or more, but less
21 than 1,000 grams, of any mixture containing that substance is
22 guilty of a felony punishable by imprisonment for not more than
23 30 years or a fine of not more than \$500,000.00, or both.

24 (iii) Which is in an amount of 50 grams or more, but less than
25 450 grams, of any mixture containing that substance is guilty of
26 a felony punishable by imprisonment for not more than 20 years or
27 a fine of not more than \$250,000.00, or both.

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

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

(b) Either of the following:

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

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

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

(d) Marihuana **OR A SUBSTANCE DESCRIBED IN SECTION 7212(1)(H)** is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00, or both.

(e) A prescription form is guilty of a misdemeanor

1 punishable by imprisonment for not more than 1 year or a fine of
2 not more than \$1,000.00, or both.

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

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

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

23 (a) A controlled substance classified in schedule 1 or 2 as
24 a narcotic drug or a drug described in section 7212(1)(g) or
25 7214(a)(iv) or (c)(ii) 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.

House Bill N. 6038 (H-2) as amended June 23, 2010

1 (b) A controlled substance classified in schedule 1, 2, 3,
2 or 4, except a controlled substance for which a penalty is
3 prescribed in subdivision (a), (c), or (d), or a controlled
4 substance analogue, is guilty of a misdemeanor punishable by
5 imprisonment for not more than 1 year or a fine of not more than
6 \$1,000.00, or both.

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

12 (d) Marihuana **OR A SUBSTANCE DESCRIBED IN SECTION**
13 **7212(1)(H)**, is guilty of a misdemeanor punishable by imprisonment
14 for not more than 90 days or a fine of not more than \$100.00, or
15 both.

[Enacting section 1. This amendatory act takes effect October 1, 2010.]