

HOUSE BILL No. 6038

April 13, 2010, Introduced by Rep. Rick Jones and referred to the Committee on Judiciary.

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:

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

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

1 Dihydromorphine Morphine methylsulfonate

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

7 2-Methylamino-1-phenylpropan-1-one

8 Some trade and other names:

9 Methcathinone

10 Cat

11 Ephedrone

12 3, 4-methylenedioxy amphetamine

13 5-methoxy-3, 4-methylenedioxy

14 amphetamine

15 3, 4, 5-trimethoxy amphetamine

16 Bufotenine

17 Some trade and other names:

18 3-(B-dimethylaminoethyl)-5 hydroxyindole

19 3-(2-dimethylaminoethyl)-5 indolol

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

21 Mappine

22 2, 5-Dimethoxyamphetamine

23 Some trade or other names:

24 2, 5-Dimethoxy-a-methylphenethylamine; 2,5-DMA

25 4-Bromo-2, 5-Dimethoxyamphetamine

26 Some trade or other names:

27 4-bromo-2, 5 dimethoxy-a-methylphenethylamine; 4-bromo

28 2,5-DMA

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

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

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

1 MDMA

2 (H) ALL OF THE FOLLOWING:

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

5 SOME TRADE AND OTHER NAMES:

6 HU-210

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

9 SOME TRADE AND OTHER NAMES:

10 CP47,497

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

12 SOME TRADE AND OTHER NAMES:

13 JWH-018

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

15 SOME TRADE AND OTHER NAMES:

16 JWH-073

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

21 (2) ~~(3)~~ For purposes of subsection (1), "isomer" includes

1 the optical, position, and geometric isomers.

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

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

11 (a) A controlled substance classified in schedule 1 or 2
12 that is a narcotic drug or a drug described in section
13 7214(a)(iv), and:

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

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

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

26 (iv) Which is in an amount of 25 grams or more, but less than
27 50 grams of any mixture containing that substance is guilty of a

1 felony punishable by imprisonment for not more than 4 years or a
2 fine of not more than \$25,000.00, or both.

3 (v) Which is in an amount less than 25 grams of any mixture
4 containing that substance is guilty of a felony punishable by
5 imprisonment for not more than 4 years or a fine of not more than
6 \$25,000.00, or both.

7 (b) Either of the following:

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

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

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

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

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

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

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 **OR A SUBSTANCE DESCRIBED IN SECTION**
11 **7212(1)(H)**, is guilty of a misdemeanor punishable by imprisonment
12 for not more than 90 days or a fine of not more than \$100.00, or
13 both.