

HOUSE BILL No. 6226

June 1, 2010, Introduced by Reps. Lisa Brown and Rick Jones and referred to the Committee on Judiciary.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

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

8 (ii) Which is in an amount of 450 grams or more, but less than
9 1,000 grams, of any mixture containing that substance is guilty of
10 a felony punishable by imprisonment for not more than 30 years or a
11 fine of not more than \$500,000.00, or both.

12 (iii) Which is in an amount of 50 grams or more, but less than
13 450 grams, of any mixture containing that substance is guilty of a
14 felony punishable by imprisonment for not more than 20 years or a
15 fine of not more than \$250,000.00, or both.

16 (iv) Which is in an amount of 25 grams or more, but less than
17 50 grams of any mixture containing that substance is guilty of a
18 felony punishable by imprisonment for not more than 4 years or a
19 fine of not more than \$25,000.00, or both.

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

24 (b) Either of the following:

25 (i) A substance described in section 7212(1) (g) or 7214(c) (ii)
26 is guilty of a felony punishable by imprisonment for not more than
27 10 years or a fine of not more than \$15,000.00, or both.

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

7 (c) Lysergic acid diethylamide, peyote, mescaline,
8 dimethyltryptamine, psilocyn, psilocybin, or a controlled substance
9 classified in schedule 5 is guilty of a misdemeanor punishable by
10 imprisonment for not more than 1 year or a fine of not more than
11 \$2,000.00, or both.

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

15 (e) A prescription form is guilty of a misdemeanor punishable
16 by imprisonment for not more than 1 year or a fine of not more than
17 \$1,000.00, or both.

18 (3) If an individual was sentenced to lifetime probation under
19 subsection (2) (a) (iv) before ~~the effective date of the amendatory~~
20 ~~act that added this subsection~~ **APRIL 1, 2003** and the individual has
21 served 5 or more years of that probationary period, the probation
22 officer for that individual may recommend to the court that the
23 court discharge the individual from probation. If an individual's
24 probation officer does not recommend discharge as provided in this
25 subsection, with notice to the prosecutor, the individual may
26 petition the court seeking resentencing under the court rules. The
27 court may discharge an individual from probation as provided in

1 this subsection. An individual may file more than 1 motion seeking
2 resentencing under this subsection.

3 Sec. 7404. (1) A person shall not use a controlled substance
4 or controlled substance analogue unless the substance was obtained
5 directly from, or pursuant to, a valid prescription or order of a
6 practitioner while acting in the course of the practitioner's
7 professional practice, or except as otherwise authorized by this
8 article.

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

10 (a) A controlled substance classified in schedule 1 or 2 as a
11 narcotic drug or a drug described in section 7212(1)(g) or
12 7214(a)(iv) or (c)(ii) is guilty of a misdemeanor punishable by
13 imprisonment for not more than 1 year or a fine of not more than
14 \$2,000.00, or both.

15 (b) A controlled substance classified in schedule 1, 2, 3, or
16 4, except a controlled substance for which a penalty is prescribed
17 in subdivision (a), (c), or (d), or a controlled substance
18 analogue, is guilty of a misdemeanor punishable by imprisonment for
19 not more than 1 year or a fine of not more than \$1,000.00, or both.

20 (c) Lysergic acid diethylamide, peyote, mescaline,
21 dimethyltryptamine, psilocyn, psilocybin, or a controlled substance
22 classified in schedule 5, is guilty of a misdemeanor punishable by
23 imprisonment for not more than 6 months or a fine of not more than
24 \$500.00, or both.

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

1 Enacting section 1. This amendatory act does not take effect
2 unless House Bill No. 6038 of the 95th Legislature is enacted into
3 law.