

HOUSE BILL No. 5650

May 12, 2016, Introduced by Reps. Singh, Pscholka, Schor, Forlini, Hughes, Lyons, Afendoulis, Glenn, Sheppard, Tedder, Crawford, Aaron Miller, Pagel, Inman, Muxlow, Irwin, Webber, Leutheuser, Wittenberg, Yonker, Kivela, Iden, Garcia, Heise, Maturen, Vaupel, Jenkins, Kelly, LaVoy, Durhal, Hoadley, Plawecki, LaGrand, Garrett, Guerra, Moss, Lucido, Poleski, Yanez, Greig, Cochran, Gay-Dagnogo, Banks, Byrd, Geiss, Hovey-Wright, Zemke, Driskell, Townsend, Faris and Lane and referred to the Committee on Criminal Justice.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 7404 (MCL 333.7404), as amended by 2015 PA 220.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7404. (1) A person shall not use a controlled substance
2 or controlled substance analogue unless the substance 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 as a
9 narcotic drug or a drug described in section 7212(1)(h) or

1 7214(a)(iv) or (c)(ii) is guilty of a misdemeanor punishable by
2 imprisonment for not more than 1 year or a fine of not more than
3 \$2,000.00, or both.

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

9 (c) Lysergic acid diethylamide, peyote, mescaline,
10 dimethyltryptamine, psilocyn, psilocybin, or a controlled substance
11 classified in schedule 5 is guilty of a misdemeanor punishable by
12 imprisonment for not more than 6 months or a fine of not more than
13 \$500.00, or both.

14 (d) Marihuana, catha edulis, salvia divinorum, or a substance
15 described in section 7212(1)(i) is guilty of a misdemeanor
16 punishable by imprisonment for not more than 90 days or a fine of
17 not more than \$100.00, or both.

18 (3) The following individuals are not in violation of this
19 section:

20 (a) An individual who ~~is less than 21 years of age and who~~
21 seeks medical assistance for himself or herself or who requires
22 medical assistance and is presented for assistance by another
23 individual if he or she is incapacitated because of a drug overdose
24 or other perceived medical emergency arising from the use of a
25 ~~prescription drug that is a controlled substance or prescription~~
26 ~~drug that is a controlled substance~~ analogue that he or she
27 possesses or possessed in an amount sufficient only for personal

1 use and the evidence of his or her violation of this section is
2 obtained as a result of the individual's seeking or being presented
3 for medical assistance.

4 (b) An individual who ~~is less than 21 years of age and who in~~
5 good faith attempts to procure medical assistance for another
6 individual or who accompanies another individual who requires
7 medical assistance for a drug overdose or other perceived medical
8 emergency arising from the use of a ~~prescription drug that is a~~
9 controlled substance or a ~~prescription drug that is a~~ controlled
10 substance analogue that he or she possesses or possessed in an
11 amount sufficient only for personal use and the evidence of his or
12 her violation of this section is obtained as a result of the
13 individual's attempting to procure medical assistance for another
14 individual or as a result of the individual's accompanying another
15 individual who requires medical assistance to a health facility or
16 agency.

17 (4) A health facility or agency shall develop a process for
18 notification of the parent or parents, guardian, or custodian of a
19 minor under the age of 18 who is not emancipated under 1968 PA 293,
20 MCL 722.1 to 722.6, and who voluntarily presents himself or
21 herself, or is presented by another individual if he or she is
22 incapacitated, to a health facility or agency for emergency medical
23 treatment as provided in subsection (3). A health facility or
24 agency shall not provide notification to a parent or parents,
25 guardian, or custodian under this subsection for nonemergency
26 treatment without obtaining the minor's consent.

27 (5) The exemption from prosecution under this section provided

1 in subsection (3) shall not prevent the investigation, arrest,
2 charging, or prosecution of an individual for any other violation
3 of the laws of this state, or be grounds for suppression of
4 evidence in the prosecution of any other criminal charges.

5 (6) As used in this section:

6 (a) "Drug overdose" means a condition including, but not
7 limited to, extreme physical illness, decreased level of
8 consciousness, respiratory depression, coma, mania, or death, that
9 is the result of consumption or use of a controlled substance or a
10 controlled substance analogue or a substance with which the
11 controlled substance or controlled substance analogue was combined,
12 or that a layperson would reasonably believe to be a drug overdose
13 that requires medical assistance.

14 (b) "Seeks medical assistance" includes, but is not limited
15 to, reporting a drug overdose or other medical emergency to law
16 enforcement, the 9-1-1 system, a poison control center, or a
17 medical provider, or assisting someone in reporting a drug overdose
18 or other medical emergency.

19 Enacting section 1. This amendatory act takes effect 90 days
20 after the date it is enacted into law.

21 Enacting section 2. This amendatory act does not take effect
22 unless Senate Bill No. ____ or House Bill No. 5649 (request no.
23 04936'16) of the 98th Legislature is enacted into law.