

HOUSE BILL No. 4505

April 22, 2015, Introduced by Reps. Lucido and Kesto and referred to the Committee on Judiciary.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 7521 (MCL 333.7521), as amended by 2001 PA 236.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7521. (1) The following property is subject to
2 forfeiture:

3 (a) A prescription form, controlled substance, an imitation
4 controlled substance, a controlled substance analogue, or other
5 drug that has been manufactured, distributed, dispensed, used,
6 possessed, or acquired in violation of this article.

7 (b) A raw material, product, or equipment of any kind that is
8 used, or intended for use, in manufacturing, compounding,
9 processing, delivering, importing, or exporting a controlled
10 substance, a controlled substance analogue, or other drug in
11 violation of this article; or a raw material, product, or equipment

1 of any kind that is intended for use in manufacturing, compounding,
2 processing, delivering, importing, or exporting an imitation
3 controlled substance in violation of section 7341.

4 (c) Property that is used, or intended for use, as a container
5 for property described in subdivision (a) or (b).

6 (d) Except as provided in subparagraphs (i) to (iv), a
7 conveyance, including an aircraft, vehicle, or vessel used or
8 intended for use, to transport, or in any manner to facilitate the
9 transportation, for the purpose of sale or receipt of property
10 described in subdivision (a) or (b):

11 (i) A conveyance used by a person as a common carrier in the
12 transaction of business as a common carrier is not subject to
13 forfeiture unless it appears that the owner or other person in
14 charge of the conveyance is a consenting party or privy to a
15 violation of this article.

16 (ii) A conveyance is not subject to forfeiture by reason of
17 any act or omission established by the owner of that conveyance to
18 have been committed or omitted without the owner's knowledge or
19 consent.

20 (iii) A conveyance is not subject to forfeiture for a
21 violation of section 7403(2)(c) or (d), section 7404, or section
22 7341(4).

23 (iv) A forfeiture of a conveyance encumbered by a bona fide
24 security interest is subject to the interest of the secured party
25 who neither had knowledge of nor consented to the act or omission.

26 (e) Books, records, and research products and materials,
27 including formulas, microfilm, tapes, and data used, or intended

1 for use, in violation of this article.

2 (f) Any thing of value that is furnished or intended to be
3 furnished in exchange for a controlled substance, an imitation
4 controlled substance, or other drug in violation of this article
5 that is traceable to an exchange for a controlled substance, an
6 imitation controlled substance, or other drug in violation of this
7 article or that is used or intended to be used to facilitate any
8 violation of this article including, but not limited to, money,
9 negotiable instruments, or securities. To the extent of the
10 interest of an owner, a thing of value is not subject to forfeiture
11 under this subdivision by reason of any act or omission that is
12 established by the owner of the item to have been committed or
13 omitted without the owner's knowledge or consent. Any money that is
14 found in close proximity to any property that is subject to
15 forfeiture under subdivision (a), (b), (c), (d), or (e) is presumed
16 to be subject to forfeiture under this subdivision. This
17 presumption may be rebutted by clear and convincing evidence.

18 (g) Any other drug paraphernalia not described in subdivision
19 (b) or (c).

20 **(2) THE PLAINTIFF IN AN ACTION UNDER THIS ARTICLE HAS THE**
21 **BURDEN OF PROVING A VIOLATION OF THIS ARTICLE BY CLEAR AND**
22 **CONVINCING EVIDENCE.**

23 (3) ~~(2)~~—As used in this section, "imitation controlled
24 substance" means that term as defined in section 7341.

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