

HOUSE BILL No. 4769

July 14, 2015, Introduced by Reps. McBroom, Kivela, Tedder, Aaron Miller, Price, Heise, Irwin, Zemke, Moss, Graves, LaFontaine, Schor, Dianda, Pscholka, Lucido, Victory, Nesbitt, Guerra, Hoadley and Kosowski and referred to the Committee on Criminal Justice.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 7410 (MCL 333.7410), as amended by 2006 PA 552.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7410. (1) Except as otherwise provided in subsections (2)
2 and (3), an individual 18 years of age or over who violates section
3 7401(2)(a)(iv) by delivering or distributing a controlled substance
4 listed in schedule 1 or 2 that is either a narcotic drug or
5 described in section 7214(a)(iv) to an individual under 18 years of
6 age who is at least 3 years the deliverer's or distributor's junior
7 may be punished by the fine authorized by section 7401(2)(a)(iv) or
8 by a term of imprisonment of not less than 1 year nor more than
9 twice that authorized by section 7401(2)(a)(iv), or both. An
10 individual 18 years of age or over who violates section 7401 or
11 7401b by delivering or distributing any other controlled substance

1 listed in schedules 1 to 5 or gamma-butyrolactone to an individual
2 under 18 years of age who is at least 3 years the distributor's
3 junior may be punished by the fine authorized by section
4 7401(2)(b), (c), or (d) or 7401b, or by a term of imprisonment not
5 more than twice that authorized by section 7401(2)(b), (c), or (d)
6 or 7401b, or both.

7 (2) An individual 18 years of age or over who violates section
8 7401(2)(a)(iv) by delivering a controlled substance described in
9 schedule 1 or 2 that is either a narcotic drug or described in
10 section 7214(a)(iv) to another person on or within 1,000 feet of
11 school property or a library shall be punished, subject to
12 subsection (5), by a term of imprisonment of not less than 2 years
13 or more than 3 times that authorized by section 7401(2)(a)(iv) and,
14 in addition, may be punished by a fine of not more than 3 times
15 that authorized by section 7401(2)(a)(iv).

16 (3) An individual 18 years of age or over who violates section
17 7401(2)(a)(iv) by possessing with intent to deliver to another
18 person on or within 1,000 feet of school property or a library a
19 controlled substance described in schedule 1 or 2 that is either a
20 narcotic drug or described in section 7214(a)(iv) shall be
21 punished, subject to subsection (5), by a term of imprisonment of
22 not less than 2 years or more than twice that authorized by section
23 7401(2)(a)(iv) and, in addition, may be punished by a fine of not
24 more than 3 times that authorized by section 7401(2)(a)(iv).

25 (4) An individual 18 years of age or over who violates section
26 7401b or 7403(2)(a)(v), (b), (c), or (d) by possessing gamma-
27 butyrolactone or a controlled substance on or within 1,000 feet of

1 school property or a library shall be punished by a term of
2 imprisonment or a fine, or both, of not more than twice that
3 authorized by section 7401b or 7403(2)(a)(v), (b), (c), or (d).

4 (5) The court may depart from the minimum term of imprisonment
5 authorized under subsection (2) or (3) if the court finds on the
6 record that there are substantial and compelling reasons to do so.

7 ~~—— (6) As used in this section:~~

8 ~~—— (a) "Library" means a library that is established by the~~
9 ~~state; a county, city, township, village, school district, or other~~
10 ~~local unit of government or authority or combination of local units~~
11 ~~of government and authorities; a community college district; a~~
12 ~~college or university; or any private library open to the public.~~

13 ~~—— (b) "School property" means a building, playing field, or~~
14 ~~property used for school purposes to impart instruction to children~~
15 ~~in grades kindergarten through 12, when provided by a public,~~
16 ~~private, denominational, or parochial school, except those~~
17 ~~buildings used primarily for adult education or college extension~~
18 ~~courses.~~

19 (6) AN INDIVIDUAL 18 YEARS OF AGE OR OVER WHO VIOLATES SECTION
20 7401 BY MANUFACTURING METHAMPHETAMINE AS THAT TERM IS DESCRIBED IN
21 SECTION 7214(C)(ii) ON OR WITHIN 1,000 FEET OF SCHOOL PROPERTY OR A
22 LIBRARY SHALL BE PUNISHED BY A TERM OF IMPRISONMENT OR A FINE, OR
23 BOTH, OF NOT MORE THAN TWICE THAT AUTHORIZED BY SECTION
24 7401(2)(B)(i).

25 (7) A person who distributes marihuana without remuneration
26 and not to further commercial distribution and who does not violate
27 subsection (1) is guilty of a misdemeanor punishable by

1 imprisonment for not more than 1 year or a fine of not more than
2 \$1,000.00, or both, unless the distribution is in accordance with
3 the federal law or the law of this state.

4 (8) AS USED IN THIS SECTION:

5 (A) "LIBRARY" MEANS A LIBRARY THAT IS ESTABLISHED BY THE
6 STATE; A COUNTY, CITY, TOWNSHIP, VILLAGE, SCHOOL DISTRICT, OR OTHER
7 LOCAL UNIT OF GOVERNMENT OR AUTHORITY OR COMBINATION OF LOCAL UNITS
8 OF GOVERNMENT AND AUTHORITIES; A COMMUNITY COLLEGE DISTRICT; A
9 COLLEGE OR UNIVERSITY; OR ANY PRIVATE LIBRARY OPEN TO THE PUBLIC.

10 (B) "SCHOOL PROPERTY" MEANS A BUILDING, PLAYING FIELD, OR
11 PROPERTY USED FOR SCHOOL PURPOSES TO IMPART INSTRUCTION TO CHILDREN
12 IN GRADES KINDERGARTEN THROUGH 12, WHEN PROVIDED BY A PUBLIC,
13 PRIVATE, DENOMINATIONAL, OR PAROCHIAL SCHOOL, EXCEPT THOSE
14 BUILDINGS USED PRIMARILY FOR ADULT EDUCATION OR COLLEGE EXTENSION
15 COURSES.

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