

HOUSE BILL NO. 4255

March 18, 2025, Introduced by Reps. Lightner, St. Germaine, Prestin, Rigas, Thompson, Markkanen, Bohnak, Schmaltz, Hoadley, Fox, Beson, Woolford, Kunse, Bollin, Neyer, Schuette, Pavlov, Borton, Jenkins-Arno, Bruck, Johnsen and Greene and referred to Committee on Judiciary.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 7401, 7410, and 7417 (MCL 333.7401, 333.7410, and 333.7417), section 7401 as amended by 2016 PA 548, section 7410 as amended by 2016 PA 128, and section 7417 as added by 2012 PA 183, and by adding sections 7410b and 7417a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7401. (1) Except as authorized by this article, a person
2 shall not manufacture, create, deliver, or possess with intent to

1 manufacture, create, or deliver a controlled substance, a
2 prescription form, or a counterfeit prescription form. A
3 practitioner licensed by the administrator under this article shall
4 not dispense, prescribe, or administer a controlled substance for
5 other than legitimate and professionally recognized therapeutic or
6 scientific purposes or outside the scope of practice of the
7 practitioner, licensee, or applicant.

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

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

11 (i) ~~Which-That~~ is in an amount of 1,000 grams or more of any
12 mixture containing that substance is guilty of a felony punishable
13 by imprisonment ~~for life or any term of years or a fine, of not~~
14 ~~more than \$1,000,000.00, or both,~~ **as provided under subsection (5).**

15 (ii) ~~Which-That~~ is in an amount of 450 grams or more, but less
16 than 1,000 grams, of any mixture containing that substance is
17 guilty of a felony and punishable by imprisonment ~~for not more than~~
18 ~~30 years or a fine, of not more than \$500,000.00, or both,~~ **as**
19 **provided under subsection (6).**

20 (iii) ~~Which-That~~ is in an amount of 50 grams or more, but less
21 than 450 grams, of any mixture containing that substance is guilty
22 of a felony punishable by imprisonment ~~for not more than 20 years~~
23 ~~or a fine, of not more than \$250,000.00, or both,~~ **as provided under**
24 **subsection (7).**

25 (iv) ~~Which-That~~ is in an amount less than 50 grams, of any
26 mixture containing that substance is guilty of a felony punishable
27 by imprisonment ~~for not more than 20 years or a fine, of not more~~
28 ~~than \$25,000.00, or both,~~ **as provided under subsection (8).**

29 (b) Either of the following:

1 (i) A substance described in section 7212(1) (h) or 7214(c) (ii)
2 is guilty of a felony punishable by imprisonment for not more than
3 20 years or a fine of not more than \$25,000.00, or both.

4 (ii) Any other controlled substance classified in schedule 1,
5 2, or 3, except marihuana, ~~or~~ a substance listed in section
6 7212(1) (d), **or a substance listed in subsections (5) to (8)**, is
7 guilty of a felony punishable by imprisonment for not more than 7
8 years or a fine of not more than \$10,000.00, or both.

9 (c) A substance classified in schedule 4 is guilty of a felony
10 punishable by imprisonment for not more than 4 years or a fine of
11 not more than \$2,000.00, or both.

12 (d) Marihuana, a mixture containing marihuana, or a substance
13 listed in section 7212(1) (d) is guilty of a felony punishable as
14 follows:

15 (i) If the amount is 45 kilograms or more, or 200 plants or
16 more, by imprisonment for not more than 15 years or a fine of not
17 more than \$10,000,000.00, or both.

18 (ii) If the amount is 5 kilograms or more but less than 45
19 kilograms, or 20 plants or more but fewer than 200 plants, by
20 imprisonment for not more than 7 years or a fine of not more than
21 \$500,000.00, or both.

22 (iii) If the amount is less than 5 kilograms or fewer than 20
23 plants, by imprisonment for not more than 4 years or a fine of not
24 more than \$20,000.00, or both.

25 (e) A substance classified in schedule 5 is guilty of a felony
26 punishable by imprisonment for not more than 2 years or a fine of
27 not more than \$2,000.00, or both.

28 (f) A prescription form or a counterfeit prescription form is
29 guilty of a felony punishable by imprisonment for not more than 7

1 years or a fine of not more than \$5,000.00, or both.

2 (3) A term of imprisonment imposed under subsection (2)(a) may
3 be imposed to run consecutively with any term of imprisonment
4 imposed for the commission of another felony.

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

16 (5) A person who violates this section as described in
17 subsection (2)(a)(i) is subject to the following penalties:

18 (a) If the substance is heroin, fentanyl, carfentanil, or any
19 derivative of heroin, fentanyl, or carfentanil, imprisonment for up
20 to life without eligibility for parole, but not less than 30 years,
21 and a fine of not more than \$2,000,000.00.

22 (b) If the substance is a substance that is not listed in
23 subdivision (a), imprisonment for life or any term of years or a
24 fine of not more than \$1,000,000.00, or both.

25 (6) A person who violates this section as described in
26 subsection (2)(a)(ii) is subject to the following penalties:

27 (a) If the substance is heroin, fentanyl, carfentanil, or any
28 derivative of heroin, fentanyl, or carfentanil, imprisonment for
29 not less than 15 years or more than 40 years and the court may

1 impose a fine of not more than \$500,000.00.

2 (b) If the substance is a substance that is not listed in
3 subdivision (a), imprisonment for not more than 30 years or a fine
4 of not more than \$500,000.00, or both.

5 (7) A person who violates this section as described in
6 subsection (2) (a) (iii) is subject to the following penalties:

7 (a) If the substance is heroin, fentanyl, carfentanil, or any
8 derivative of heroin, fentanyl, or carfentanil, imprisonment for
9 not less than 10 years or more than 25 years and the court may
10 impose a fine of not more than \$250,000.00.

11 (b) If the substance is a substance that is not listed in
12 subdivision (a), imprisonment for not more than 20 years or a fine
13 of not more than \$250,000.00, or both.

14 (8) A person who violates this section as described in
15 subsection (2) (a) (iv) is subject to the following penalties:

16 (a) If the substance is heroin, fentanyl, carfentanil, or any
17 derivative of heroin, fentanyl, or carfentanil, imprisonment for
18 not less than 5 years or more than 20 years and the court may
19 impose a fine of not more than \$25,000.00.

20 (b) If the substance is a substance that is not listed under
21 subdivision (a), imprisonment for not more than 20 years or a fine
22 of not more than \$25,000.00, or both.

23 (9) ~~(5)~~—As used in this section, "plant" means a marihuana
24 plant that has produced cotyledons or a cutting of a marihuana
25 plant that has produced cotyledons.

26 Sec. 7410. (1) Except as otherwise provided in subsections (2)
27 and (3) **and in section 7410b**, an individual 18 years of age or over
28 who violates section 7401(2) (a) (iv) by delivering or distributing a
29 controlled substance listed in schedule 1 or 2 that is either a

1 narcotic drug or described in section 7214(a) (iv) to an individual
2 under 18 years of age who is at least 3 years the deliverer's or
3 distributor's junior may be punished by the fine authorized by
4 section 7401(2) (a) (iv) or by a term of imprisonment of not less than
5 1 year ~~nor or~~ more than twice that authorized by section
6 7401(2) (a) (iv), or both. An individual 18 years of age or over who
7 violates section 7401 or 7401b by delivering or distributing any
8 other controlled substance listed in schedules 1 to 5 or gamma-
9 butyrolactone to an individual under 18 years of age who is at
10 least 3 years the distributor's junior may be punished by the fine
11 authorized by section 7401(2) (b), (c), or (d) or 7401b, or by a
12 term of imprisonment not more than twice that authorized by section
13 7401(2) (b), (c), or (d) or 7401b, or both.

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

23 (3) An individual 18 years of age or over who violates section
24 7401(2) (a) (iv) by possessing with intent to deliver to another
25 person on or within 1,000 feet of school property or a library a
26 controlled substance described in schedule 1 or 2 that is either a
27 narcotic drug or described in section 7214(a) (iv) shall be punished,
28 subject to subsection (5), by a term of imprisonment of not less
29 than 2 years or more than twice that authorized by section

1 7401(2) (a) (iv) and, in addition, may be punished by a fine of not
2 more than 3 times that authorized by section 7401(2) (a) (iv) .

3 (4) An individual 18 years of age or over who violates section
4 7401b or 7403(2) (a) (v), (b), (c), or (d) by possessing gamma-
5 butyrolactone or a controlled substance on or within 1,000 feet of
6 school property or a library shall be punished by a term of
7 imprisonment or a fine, or both, of not more than twice that
8 authorized by section 7401b or 7403(2) (a) (v), (b), (c), or (d) .

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

12 (6) An individual 18 years of age or over who violates section
13 7401 by manufacturing methamphetamine as that term is described in
14 section 7214(c) (ii) on or within 1,000 feet of school property or a
15 library shall be punished by a term of imprisonment or a fine, or
16 both, of not more than twice that authorized by section
17 7401(2) (b) (i) .

18 (7) A person who distributes marihuana without remuneration
19 and not to further commercial distribution and who does not violate
20 subsection (1) is guilty of a misdemeanor punishable by
21 imprisonment for not more than 1 year or a fine of not more than
22 \$1,000.00, or both, unless the distribution is in accordance with
23 the federal law or the law of this state.

24 (8) As used in this section:

25 (a) "Library" means a library that is established by ~~the~~**this**
26 state; a county, city, township, village, school district, or other
27 local unit of government or authority or combination of local units
28 of government and authorities; a community college district; a
29 college or university; or any private library open to the public.

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

Sec. 7410b. An individual 18 years of age or over who violates section 7401(2)(a) by delivering or possessing with intent to deliver heroin, fentanyl, or carfentanil, or any derivative of heroin, fentanyl, or carfentanil, to a minor shall be punished by a term of imprisonment of not less than 10 years or more than 40 years.

Sec. 7417. (1) ~~A~~**Except as provided in section 7417a, a person** who knows that a named product contains or previously contained an ingredient that was designated to be a schedule 1 controlled substance shall not sell or offer to sell any other product while representing that it contains an ingredient that produces the same or a substantially similar physiological or psychological effect as that scheduled ingredient. This subsection does not apply to a product approved by the ~~federal food and drug administration.~~**United States Food and Drug Administration.**

(2) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$20,000.00, or both.

(3) As used in this section, "named product" means either of the following:

(a) A product having a designated brand name.

(b) A product having a street or common name with application sufficient to identify the product as a specific product within

1 this state or within a local unit of government.

2 **Sec. 7417a. (1) A person who knows that a product contains**
3 **heroin, fentanyl, or carfentanil, or any derivative of heroin,**
4 **fentanyl, or carfentanil, shall not sell or offer to sell that**
5 **product in violation of this article without representing that the**
6 **product contains heroin, fentanyl, carfentanil, or any derivative**
7 **of heroin, fentanyl, or carfentanil, as applicable. This subsection**
8 **does not apply to a product approved by the United States Food and**
9 **Drug Administration.**

10 **(2) A person who violates this section is guilty of a felony**
11 **and shall be punished by imprisonment for 10 years.**

12 **(3) A term of imprisonment prescribed by this section is in**
13 **addition to the sentence imposed for the sale or the offer of the**
14 **sale of the product in violation of this article and must be served**
15 **consecutively with and preceding any term of imprisonment imposed**
16 **for the conviction of the crime for the sale or the offer of the**
17 **sale.**

18 **(4) A term of imprisonment imposed under this section must not**
19 **be suspended. The person subject to the sentence mandated by this**
20 **section is not eligible for parole or probation during the**
21 **mandatory term imposed under subsection (1).**

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