

HOUSE BILL NO. 4498

May 15, 2025, Introduced by Reps. Rheingans, Pohutsky, Conlin, Miller, Paiz, MacDonell, Wooden, McKinney, Longjohn, Weiss, Skaggs, Young, Breen, McFall, Price, Foreman and Rogers and referred to Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 7401, 7403, 7453, and 7457 (MCL 333.7401, 333.7403, 333.7453, and 333.7457), section 7401 as amended by 2016 PA 548, section 7403 as amended by 2016 PA 307, section 7453 as amended by 2024 PA 18, and section 7457 as amended by 2006 PA 458, and by adding section 5137.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **Sec. 5137. (1) A person that receives authorization from the**
2 **department or a local government agency may establish a needle and**
3 **hypodermic syringe access program for the purposes of distributing**

1 sterile needles or hypodermic syringes to individuals or providing
2 additional services, items, or equipment to individuals to decrease
3 the spread of communicable diseases.

4 (2) The department may promulgate rules to implement
5 subsection (1), including, but not limited to, rules on
6 requirements for obtaining an authorization to establish and
7 implement a program.

8 (3) An individual is participating in a program if the
9 individual is served by a program or the individual is acting as an
10 employee or volunteer for the program. An individual who
11 participates in a program established under this section is not in
12 violation of section 7401 or 7403, a local ordinance substantially
13 corresponding to section 7401 or 7403, or a local ordinance that
14 provides criminal penalties for the possession of drug
15 paraphernalia, for the possession, distribution, or delivery of any
16 of the following:

17 (a) A needle or hypodermic syringe, including a needle or
18 hypodermic syringe that is empty or has not yet been used, or drug
19 paraphernalia.

20 (b) A controlled substance that is contained in a used needle,
21 used hypodermic syringe, or used drug paraphernalia, if the amount
22 of the controlled substance contained in the needle, syringe, or
23 drug paraphernalia is in a trace or residual amount.

24 (c) Drug testing equipment, including, but not limited to, a
25 test strip or reagent.

26 (4) Participation in a program established under this section
27 may be established through any evidence that is otherwise
28 admissible, including, but not limited to, either of the following:

29 (a) Testimony from a third party regarding the individual's

1 participation in a program.

2 (b) A program card or sign-in sheet.

3 (5) As used in this section:

4 (a) "Controlled substance" means that term as defined in
5 section 7104.

6 (b) "Drug paraphernalia" means that term as defined in section
7 7451.

8 (c) "Local government agency" means a local health officer or
9 a local health department or other governmental entity.

10 (d) "Needle and hypodermic syringe access program" or
11 "program" means a program established under subsection (1).

12 Sec. 7401. (1) Except as authorized by this article, a person
13 shall not manufacture, create, deliver, or possess with intent to
14 manufacture, create, or deliver a controlled substance, a
15 prescription form, or a counterfeit prescription form. A
16 practitioner licensed by the administrator under this article shall
17 not dispense, prescribe, or administer a controlled substance for
18 other than legitimate and professionally recognized therapeutic or
19 scientific purposes or outside the scope of practice of the
20 practitioner, licensee, or applicant.

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

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

24 (i) ~~Which~~ **That** is in an amount of 1,000 grams or more of any
25 mixture containing that substance is guilty of a felony punishable
26 by imprisonment for life or any term of years or a fine of not more
27 than \$1,000,000.00, or both.

28 (ii) ~~Which~~ **That** is in an amount of 450 grams or more, but less
29 than 1,000 grams, of any mixture containing that substance is

1 guilty of a felony and punishable by imprisonment for not more than
2 30 years or a fine of not more than \$500,000.00, or both.

3 (iii) ~~which~~**That** is in an amount of 50 grams or more, but less
4 than 450 grams, of any mixture containing that substance is guilty
5 of a felony punishable by imprisonment for not more than 20 years
6 or a fine of not more than \$250,000.00, or both.

7 (iv) ~~which~~**That** is in an amount less than 50 grams, of any
8 mixture containing that substance is guilty of a felony punishable
9 by imprisonment for not more than 20 years or a fine of not more
10 than \$25,000.00, or both.

11 (b) Either of the following:

12 (i) A substance described in section 7212(1) (h) or 7214(c) (ii)
13 is guilty of a felony punishable by imprisonment for not more than
14 20 years or a fine of not more than \$25,000.00, or both.

15 (ii) Any other controlled substance classified in schedule 1,
16 2, or 3, except marihuana or a substance listed in section
17 7212(1) (d), is guilty of a felony punishable by imprisonment for
18 not more than 7 years or a fine of not more than \$10,000.00, or
19 both.

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

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

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

29 (ii) If the amount is 5 kilograms or more but less than 45

1 kilograms, or 20 plants or more but fewer than 200 plants, by
2 imprisonment for not more than 7 years or a fine of not more than
3 \$500,000.00, or both.

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

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

10 (f) A prescription form or a counterfeit prescription form is
11 guilty of a felony punishable by imprisonment for not more than 7
12 years or a fine of not more than \$5,000.00, or both.

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

16 (4) If an individual was sentenced to lifetime probation under
17 subsection (2)(a)(iv) as it existed before March 1, 2003 and the
18 individual has served 5 or more years of that probationary period,
19 the probation officer for that individual may recommend to the
20 court that the court discharge the individual from probation. If an
21 individual's probation officer does not recommend discharge as
22 provided in this subsection, with notice to the prosecutor, the
23 individual may petition the court seeking resentencing under the
24 court rules. The court may discharge an individual from probation
25 as provided in this subsection. An individual may file more than 1
26 motion seeking resentencing under this subsection.

27 **(5) An individual who meets the requirements of section**
28 **5137(3) is not in violation of this section.**

29 (6) ~~(5)~~As used in this section, "plant" means a marihuana

1 plant that has produced cotyledons or a cutting of a marihuana
2 plant that has produced cotyledons.

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

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

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

14 (i) That is in an amount of 1,000 grams or more of any mixture
15 containing that substance is guilty of a felony punishable by
16 imprisonment for life or any term of years or a fine of not more
17 than \$1,000,000.00, or both.

18 (ii) That is in an amount of 450 grams or more, but less than
19 1,000 grams, of any mixture containing that substance is guilty of
20 a felony punishable by imprisonment for not more than 30 years or a
21 fine of not more than \$500,000.00, or both.

22 (iii) That is in an amount of 50 grams or more, but less than
23 450 grams, of any mixture containing that substance is guilty of a
24 felony punishable by imprisonment for not more than 20 years or a
25 fine of not more than \$250,000.00, or both.

26 (iv) That is in an amount of 25 grams or more, but less than 50
27 grams of any mixture containing that substance is guilty of a
28 felony punishable by imprisonment for not more than 4 years or a
29 fine of not more than \$25,000.00, or both.

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

5 (b) Either of the following:

6 (i) A substance described in section 7212(1)(h) or 7214(c) (ii)
7 is guilty of a felony punishable by imprisonment for not more than
8 10 years or a fine of not more than \$15,000.00, or both.

9 (ii) A controlled substance classified in schedule 1, 2, 3, or
10 4, except a controlled substance for which a penalty is prescribed
11 in subparagraph (i) or subdivision (a), (c), or (d), or a controlled
12 substance analogue is guilty of a felony punishable by imprisonment
13 for not more than 2 years or a fine of not more than \$2,000.00, or
14 both.

15 (c) Lysergic acid diethylamide, peyote, mescaline,
16 dimethyltryptamine, psilocyn, psilocybin, or a controlled substance
17 classified in schedule 5 is guilty of a misdemeanor punishable by
18 imprisonment for not more than 1 year or a fine of not more than
19 \$2,000.00, or both.

20 (d) Marihuana or a substance listed in section 7212(1)(d) is
21 guilty of a misdemeanor punishable by imprisonment for not more
22 than 1 year or a fine of not more than \$2,000.00, or both.

23 (e) A prescription form is guilty of a misdemeanor punishable
24 by imprisonment for not more than 1 year or a fine of not more than
25 \$1,000.00, or both.

26 (3) The following individuals are not in violation of this
27 section:

28 (a) An individual who seeks medical assistance for ~~himself or~~
29 ~~herself~~ **the individual's self** or who requires medical assistance

1 and is presented for assistance by another individual if ~~he or she~~
2 **the individual** is incapacitated because of a drug overdose or other
3 perceived medical emergency arising from the use of a controlled
4 substance or a controlled substance analogue that ~~he or she~~ **the**
5 **individual** possesses or possessed in an amount sufficient only for
6 personal use and the evidence of ~~his or her~~ **the individual's**
7 violation of this section is obtained as a result of the
8 individual's seeking or being presented for medical assistance.

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

21 (4) A health facility or agency shall develop a process for
22 notification of the parent or parents, guardian, or custodian of a
23 minor under the age of 18 who is not emancipated under 1968 PA 293,
24 MCL 722.1 to 722.6, and who voluntarily presents ~~himself or~~
25 ~~herself,~~ **the individual's self**, or is presented by another
26 individual if ~~he or she~~ **the individual** is incapacitated, to a
27 health facility or agency for emergency medical treatment as
28 provided in subsection (3). A health facility or agency shall not
29 provide notification to a parent or parents, guardian, or custodian

1 under this subsection for nonemergency treatment without obtaining
2 the minor's consent.

3 (5) The exemption from prosecution under this section provided
4 in subsection (3) does not prevent the investigation, arrest,
5 charging, or prosecution of an individual for any other violation
6 of the laws of this state or be grounds for suppression of evidence
7 in the prosecution of any other criminal charges.

8 **(6) An individual who meets the requirements of section**
9 **5137(3) is not in violation of this section.**

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

21 (8) ~~(7)~~ As used in this section:

22 (a) "Drug overdose" means a condition including, but not
23 limited to, extreme physical illness, decreased level of
24 consciousness, respiratory depression, coma, mania, or death, that
25 is the result of consumption or use of a controlled substance or a
26 controlled substance analogue or a substance with which the
27 controlled substance or controlled substance analogue was combined,
28 or that a layperson would reasonably believe to be a drug overdose
29 that requires medical assistance.

1 (b) "Seeks medical assistance" means reporting a drug overdose
2 or other medical emergency to law enforcement, the 9-1-1 system, a
3 poison control center, or a medical provider, or assisting someone
4 in reporting a drug overdose or other medical emergency.

5 Sec. 7453. (1) Subject to ~~subsection~~**subsections** (2) **and (4)**,
6 a person shall not sell or offer for sale an object specifically
7 designed for inhaling nitrous oxide for recreational purposes or
8 drug paraphernalia, knowing that the object specifically designed
9 for inhaling nitrous oxide for recreational purposes will be used
10 to inhale nitrous oxide for recreational purposes or that the drug
11 paraphernalia will be used to plant, propagate, cultivate, grow,
12 harvest, manufacture, compound, convert, produce, process, prepare,
13 test, analyze, pack, repack, store, contain, conceal, inject,
14 ingest, inhale, or otherwise introduce into the human body a
15 controlled substance.

16 (2) Before a person is arrested for a violation of subsection
17 (1), the attorney general or a prosecuting attorney shall notify
18 the person in writing, not less than 2 business days before the
19 person is to be arrested, that the person is in possession of
20 specific, defined material that has been determined by the attorney
21 general or prosecuting attorney to be an object specifically
22 designed for inhaling nitrous oxide for recreational purposes or
23 drug paraphernalia. The notice also must request that the person
24 refrain from selling or offering for sale the material and must
25 state that if the person complies with the notice, no arrest will
26 be made for a violation of subsection (1).

27 (3) If a person complies with a notice sent under subsection
28 (2), the compliance is a complete defense in a prosecution under
29 this section, as long as the compliance continues.

(4) A health professional who is licensed, registered, or otherwise authorized to engage in the practice of a health profession under article 15, who sells or offers for sale drug paraphernalia in the health professional's professional capacity is not in violation of this section.

Sec. 7457. Sections 7451 to 7455 do not apply to any of the following:

(a) An object sold or offered for sale to a person licensed under article 15 or under the occupational code, 1980 PA 299, MCL 339.101 to ~~339.2721~~, **339.2677**, or any intern, trainee, apprentice, or assistant in a profession licensed under article 15 or under the occupational code, 1980 PA 299, MCL 339.101 to ~~339.2721~~, **339.2677**, for use in that profession.

(b) An object sold or offered for sale to any hospital, sanitarium, clinical laboratory, or other health care institution including a penal, correctional, or juvenile detention facility for use in that institution.

(c) An object sold or offered for sale to a dealer in medical, dental, surgical, or pharmaceutical supplies.

(d) A blender, bowl, container, spoon, or mixing device not specifically designed for a use described in section 7451.

(e) A hypodermic syringe or needle sold or offered for sale for the purpose of injecting or otherwise treating livestock or other animals.

(f) An object ~~sold, offered for sale, or given away~~ **that is provided** by a state or local governmental ~~agency~~ **program** or by a ~~person specifically authorized by a state or local governmental agency to prevent the transmission of infectious agents.~~ **needle and hypodermic syringe access program established under section 5137.**