

HOUSE BILL No. 4501

March 22, 1989, Introduced by Reps. Fitzgerald, Crandall, Gnodtke, Runco, Bandstra, Giese, Randall, Strand, Jaye, Emmons, Law, Hoffman, London, Ouwinga, Hillegonds, Krause, Willis Bullard, Stupak, Stacey, Bankes and Weeks and referred to the Committee on Judiciary.

A bill to amend section 7403 of Act No. 368 of the Public Acts of 1978, entitled as amended
"Public health code,"
as amended by Act No. 60 of the Public Acts of 1988, being section 333.7403 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 7403 of Act No. 368 of the Public Acts
2 of 1978, as amended by Act No. 60 of the Public Acts of 1988,
3 being section 333.7403 of the Michigan Compiled Laws, is amended
4 to read as follows:

5 Sec. 7403. (1) A person shall not knowingly or intention-
6 ally possess a controlled substance or an official prescription
7 form or a prescription form unless the controlled substance,
8 official prescription form, or prescription form was obtained
9 directly from, or pursuant to, a valid prescription or order of a

1 practitioner while acting in the course of the practitioner's
2 professional practice, or except as otherwise authorized by this
3 article.

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

5 (a) A controlled substance classified in schedule 1 or 2
6 which is either a narcotic drug or described in section
7 7214(a)(iv), and:

8 (i) Which is in an amount of 650 grams or more of any mix-
9 ture containing that controlled substance is guilty of a felony
10 and shall be imprisoned for life.

11 (ii) Which is in an amount of 225 grams or more, but less
12 than 650 grams, of any mixture containing that controlled sub-
13 stance is guilty of a felony and shall be imprisoned for not less
14 than 10 years nor more than 30 years.

15 (iii) Which is in an amount of 50 grams or more, but less
16 than 225 grams, of any mixture containing that controlled sub-
17 stance is guilty of a felony and shall be imprisoned for not less
18 than 5 years nor more than 20 years.

19 (iv) Which is in an amount of 25 grams or more, but less
20 than 50 grams of any mixture containing that controlled substance
21 is guilty of a felony, and shall be imprisoned for not less than
22 1 year and not more than 4 years, and may be fined not more than
23 \$25,000.00 or placed on probation for life.

24 (v) Which is in an amount less than 25 grams of any mixture
25 containing that controlled substance is guilty of a felony, pun-
26 ishable by imprisonment for not more than 4 years or a fine of
27 not more than \$25,000.00, or both.

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

6 (c) Lysergic acid diethylamide, peyote, mescaline, dimethyl-
7 tryptamine, psilocyn, psilocybin, or a controlled substance clas-
8 sified in schedule 5, is guilty of a misdemeanor, punishable by
9 imprisonment for not more than 1 year, or a fine of not more than
10 \$1,000.00, or both.

11 (d) Marihuana, ~~is guilty of a misdemeanor, punishable by~~
12 ~~imprisonment for not more than 1 year, or a fine of not more than~~
13 ~~\$1,000.00, or both.~~ AND:

14 (i) WHICH IS IN AN AMOUNT OF 250 GRAMS OR MORE, IS GUILTY OF
15 A FELONY, PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 4 YEARS OR
16 A FINE OF NOT MORE THAN \$2,000.00, OR BOTH.

17 (ii) WHICH IS IN AN AMOUNT OF 50 GRAMS OR MORE, BUT LESS
18 THAN 250 GRAMS, IS GUILTY OF A MISDEMEANOR, PUNISHABLE BY IMPRIS-
19 ONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN
20 \$1,000.00, OR BOTH.

21 (iii) WHICH IS IN AN AMOUNT OF LESS THAN 50 GRAMS, IS GUILTY
22 OF A MISDEMEANOR, PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 6
23 MONTHS OR A FINE OF NOT MORE THAN \$500.00, OR BOTH.

24 (e) An official prescription form, is guilty of a felony,
25 punishable by imprisonment for not more than 1 year, or a fine of
26 not more than \$2,000.00, or both.

1 (f) A prescription form other than an official prescription
2 form, is guilty of a misdemeanor, punishable by imprisonment for
3 not more than 1 year, or a fine of not more than \$1,000.00, or
4 both.

5 (3) The court may depart from the minimum term of imprison-
6 ment authorized under subsection (2)(A)(ii), (iii), or (iv) if
7 the court finds on the record that there are substantial and com-
8 pelling reasons to do so.