

# HOUSE BILL No. 5047

September 20, 1989, Introduced by Rep. Bryant and referred to the Committee on Judiciary.

A bill to amend section 7401 of Act No. 368 of the Public Acts of 1978, entitled as amended

"Public health code,"

as amended by Act No. 143 of the Public Acts of 1989, being section 333.7401 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Section 7401 of Act No. 368 of the Public Acts  
2 of 1978, as amended by Act No. 143 of the Public Acts of 1989,  
3 being section 333.7401 of the Michigan Compiled Laws, is amended  
4 to read as follows:

5       Sec. 7401. (1) Except as authorized by this article, a  
6 person shall not manufacture, deliver, or possess with intent to  
7 manufacture or deliver, a controlled substance, a prescription  
8 form, an official prescription form, or a counterfeit  
9 prescription form. A practitioner licensed by the administrator

1 under this article shall not dispense, prescribe, or administer a  
2 controlled substance for other than legitimate and professionally  
3 recognized therapeutic or scientific purposes or outside the  
4 scope of practice of the practitioner, licensee, or applicant.

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

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

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

12 (ii) Which is in an amount of 225 grams or more, but less  
13 than 650 grams, of any mixture containing that controlled sub-  
14 stance is guilty of a felony and shall be imprisoned for not less  
15 than 20 years nor more than 30 years.

16 (iii) Which is in an amount of 50 grams or more, but less  
17 than 225 grams, of any mixture containing that controlled sub-  
18 stance is guilty of a felony and shall be imprisoned for not less  
19 than 10 years nor more than 20 years.

20 (iv) Which is in an amount less than 50 grams, of any mix-  
21 ture containing that substance is guilty of a felony and shall be  
22 imprisoned for not less than 1 year nor more than 20 years, and  
23 may be fined not more than \$25,000.00, or placed on probation for  
24 life.

25 (b) Any other controlled substance classified in schedule 1,  
26 2, or 3, except marihuana, is guilty of a felony, punishable by

1 imprisonment for not more than 7 years, or a fine of not more  
2 than \$5,000.00, or both.

3 (c) A substance classified in schedule 4 or marihuana, is  
4 guilty of a felony, punishable by imprisonment for not more than  
5 4 years, or a fine of not more than \$2,000.00, or both.

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

9 (e) An official prescription form or a counterfeit official  
10 prescription form, is guilty of a felony, punishable by imprison-  
11 ment for not more than 20 years, or a fine of not more than  
12 \$25,000.00, or both.

13 (f) A prescription form or a counterfeit prescription form  
14 other than an official prescription form or a counterfeit offi-  
15 cial prescription form, is guilty of a felony, punishable by  
16 imprisonment for not more than 7 years, or a fine of not more  
17 than \$5,000.00, or both.

18 (3) A term of imprisonment imposed pursuant to subsection  
19 (2)(a) or section 7403(2)(a)(i), (ii), (iii), or (iv) shall be  
20 imposed to run consecutively with any term of imprisonment  
21 imposed for the commission of another felony. An individual  
22 subject to a mandatory term of imprisonment under subsection  
23 (2)(a) or section 7403(2)(a)(i), (ii), (iii), or (iv) shall not  
24 be eligible for probation, suspension of that sentence, or parole  
25 during that mandatory term, except and only to the extent that  
26 those provisions permit probation for life, and shall not receive  
27 a reduction in that mandatory term of imprisonment by

1 disciplinary credits or any other type of sentence credit  
2 reduction.

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

7 (5) THE COURT SHALL ORDER THE OPERATOR'S LICENSE OR  
8 CHAUFFEUR'S LICENSE OF A PERSON CONVICTED OF VIOLATING THIS SEC-  
9 TION REVOKED, AND SHALL ORDER THE OPERATORS LICENSE OR  
10 CHAUFFEUR'S LICENSE OF A PERSON FOUND RESPONSIBLE UNDER CHAPTER  
11 XIIIA OF ACT NO. 288 OF THE PUBLIC ACTS OF 1939, BEING SECTIONS  
12 712A.1 TO 712A.28 OF THE MICHIGAN COMPILED LAWS, FOR VIOLATING  
13 THIS SECTION REVOKED, IF THE VIOLATION INVOLVED THE MANUFACTURING  
14 OF, DELIVERY OF, OR POSSESSION OF WITH INTENT TO MANUFACTURE OR  
15 DELIVER, COCAINE OR HEROIN, OR A MIXTURE CONTAINING COCAINE OR  
16 HEROIN.

17 Section 2. This amendatory act shall not take effect unless  
18 Senate Bill No. \_\_\_\_\_ or House Bill No. 5046 (request  
19 no. 02035'89 a) of the 85th Legislature is enacted into law.