

HOUSE BILL No. 5213

October 19, 1989, Introduced by Rep. Clack and referred to the Committee on Judiciary.

A bill to amend sections 7401, 7402, 7403, 7404, and 7407 of Act No. 368 of the Public Acts of 1978, entitled as amended "Public health code,"

sections 7401 and 7403 as amended by Act No. 143 of the Public Acts of 1989 and sections 7402 and 7407 as amended by Act No. 60 of the Public Acts of 1988, being sections 333.7401, 333.7402, 333.7403, 333.7404, and 333.7407 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 7401, 7402, 7403, 7404, and 7407 of Act
2 No. 368 of the Public Acts of 1978, sections 7401 and 7403 as
3 amended by Act No. 143 of the Public Acts of 1989 and sections
4 7402 and 7407 as amended by Act No. 60 of the Public Acts of
5 1988, being sections 333.7401, 333.7402, 333.7403, 333.7404, and
6 333.7407 of the Michigan Compiled Laws, are amended to read as
7 follows:

1 Sec. 7401. (1) Except as authorized by this article, a
2 person shall not manufacture, deliver, or possess with intent to
3 manufacture or deliver, a controlled substance, a prescription
4 form, an official prescription form, or a counterfeit prescrip-
5 tion form. A practitioner licensed by the administrator under
6 this article shall not dispense, prescribe, or administer a con-
7 trolled substance for other than legitimate and professionally
8 recognized therapeutic or scientific purposes or outside the
9 scope of practice of the practitioner, licensee, or applicant.

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

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

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

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

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

25 (iv) Which is in an amount less than 50 grams, of any mix-
26 ture containing that substance is guilty of a felony and shall be
27 imprisoned for not less than 1 year nor more than 20 years, and

1 may be fined not more than \$25,000.00, or placed on probation for
2 life.

3 (b) Any other controlled substance classified in schedule 1,
4 2, or 3, except marihuana, is guilty of a felony, punishable by
5 imprisonment for not more than 7 years, or a fine of not more
6 than \$5,000.00, or both.

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

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

13 (e) An official prescription form or a counterfeit official
14 prescription form, is guilty of a felony, punishable by imprison-
15 ment for not more than 20 years, or a fine of not more than
16 \$25,000.00, or both.

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

22 (3) A term of imprisonment imposed pursuant to subsection
23 (2)(a) or section 7403(2)(a)(i), (ii), (iii), or (iv) shall be
24 imposed to run consecutively with any term of imprisonment
25 imposed for the commission of another felony. An individual
26 subject to a mandatory term of imprisonment under subsection
27 (2)(a) or section 7403(2)(a)(i), (ii), (iii), or (iv) shall not

1 be eligible for probation, suspension of that sentence, or parole
2 during that mandatory term, except and only to the extent that
3 those provisions permit probation for life, and shall not receive
4 a reduction in that mandatory term of imprisonment by disci-
5 plinary credits or any other type of sentence credit reduction.

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

10 (5) THE COURT SHALL ORDER THE SECRETARY OF STATE TO SUSPEND
11 FOR A PERIOD OF NOT LESS THAN 60 DAYS OR MORE THAN 1 YEAR THE
12 MOTOR VEHICLE OPERATOR'S LICENSE OR CHAUFFEUR'S LICENSE OF A
13 PERSON CONVICTED OF VIOLATING THIS SECTION, IF THE PERSON POS-
14 SSESSED A CONTROLLED SUBSTANCE, A CONTROLLED SUBSTANCE ANALOGUE,
15 OR A COUNTERFEIT SUBSTANCE IN A MOTOR VEHICLE UPON A PUBLIC HIGH-
16 WAY OR OTHER PLACE OPEN TO THE GENERAL PUBLIC DURING THE
17 VIOLATION. THE COURT MAY ORDER THE SECRETARY OF STATE TO ISSUE TO
18 THE PERSON A RESTRICTED LICENSE PERMITTING THE PERSON DURING ALL
19 OR A SPECIFIED PORTION OF THE PERIOD OF SUSPENSION TO DRIVE ONLY
20 TO AND FROM THE PERSON'S RESIDENCE AND WORK LOCATION; IN THE
21 COURSE OF THE PERSON'S EMPLOYMENT OR OCCUPATION; TO AND FROM AN
22 ALCOHOL OR DRUG EDUCATION PROGRAM OR TREATMENT PROGRAM AS ORDERED
23 BY THE COURT; TO AND FROM THE PERSON'S RESIDENCE AND AN EDUCA-
24 TIONAL INSTITUTION AT WHICH THE PERSON IS ENROLLED AS A STUDENT;
25 OR PURSUANT TO A COMBINATION OF THESE RESTRICTIONS. THE COURT
26 SHALL NOT ORDER THE SECRETARY OF STATE TO ISSUE A RESTRICTED
27 CHAUFFEUR'S LICENSE WHICH WOULD PERMIT A PERSON TO OPERATE A

1 TRUCK OR TRUCK TRACTOR, INCLUDING A TRAILER, WHICH HAULS
2 HAZARDOUS MATERIAL. THE COURT SHALL NOT ORDER THE SECRETARY OF
3 STATE TO ISSUE A RESTRICTED LICENSE UNLESS THE PERSON STATES
4 UNDER OATH AND THE COURT FINDS THAT THE PERSON IS UNABLE TO TAKE
5 PUBLIC TRANSPORTATION TO AND FROM HIS OR HER WORK LOCATION, PLACE
6 OF ALCOHOL OR DRUG EDUCATION OR TREATMENT, OR EDUCATIONAL INSTI-
7 TUTION, AND DOES NOT HAVE ANY FAMILY MEMBERS OR OTHERS ABLE TO
8 PROVIDE TRANSPORTATION. THE COURT ORDER AND LICENSE SHALL INDI-
9 CATE THE PERSON'S WORK LOCATION AND THE APPROVED ROUTE OR ROUTES
10 AND PERMITTED TIMES OF TRAVEL. FOR PURPOSES OF THIS SUBSECTION,
11 "WORK LOCATION" INCLUDES, AS APPLICABLE, EITHER OR BOTH OF THE
12 FOLLOWING:

13 (A) THE SPECIFIC PLACE OR PLACES OF EMPLOYMENT.

14 (B) THE TERRITORY OR TERRITORIES REGULARLY VISITED BY THE
15 PERSON IN PURSUANCE OF THE PERSON'S OCCUPATION.

16 (6) BEFORE ACCEPTING A PLEA OF GUILTY THAT WILL RESULT IN A
17 LICENSE SUSPENSION UNDER THIS SECTION, THE COURT SHALL ADVISE THE
18 ACCUSED OF THE STATUTORY CONSEQUENCES POSSIBLE AS THE RESULT OF A
19 PLEA OF GUILTY IN RESPECT TO SUSPENSION OF AN OPERATOR'S OR
20 CHAUFFEUR'S LICENSE, THE PENALTY IMPOSED FOR VIOLATION OF THIS
21 SECTION, AND THE LIMITATION ON THE RIGHT OF APPEAL.

22 (7) THE OPERATOR'S OR CHAUFFEUR'S LICENSE OF A PERSON FOUND
23 GUILTY OF VIOLATING THIS SECTION SHALL BE SURRENDERED TO THE
24 COURT IN WHICH THE PERSON WAS CONVICTED, IF THE PERSON POSSESSED
25 A CONTROLLED SUBSTANCE, A CONTROLLED SUBSTANCE ANALOGUE, OR A
26 COUNTERFEIT SUBSTANCE IN A MOTOR VEHICLE UPON A PUBLIC HIGHWAY OR
27 OTHER PLACE OPEN TO THE GENERAL PUBLIC AT THE TIME OF THE

1 VIOLATION. THE COURT SHALL IMMEDIATELY FORWARD THE SURRENDERED
2 LICENSE AND AN ABSTRACT OF CONVICTION TO THE SECRETARY OF STATE.
3 THE ABSTRACT OF CONVICTION SHALL INDICATE THE SENTENCE IMPOSED.
4 UPON RECEIPT OF, AND PURSUANT TO THE ABSTRACT OF CONVICTION, THE
5 SECRETARY OF STATE SHALL SUSPEND THE PERSON'S LICENSE AND, IF
6 ORDERED BY THE COURT AND THE PERSON IS OTHERWISE ELIGIBLE FOR A
7 LICENSE, ISSUE TO THE PERSON A RESTRICTED LICENSE STATING THE
8 LIMITED DRIVING PRIVILEGES INDICATED ON THE ABSTRACT. IF THE
9 LICENSE IS NOT FORWARDED TO THE SECRETARY OF STATE, AN EXPLANA-
10 TION OF THE REASON WHY THE LICENSE IS ABSENT SHALL BE ATTACHED.
11 IF THE CONVICTION IS APPEALED, THE APPELLATE COURT MAY, EX PARTE,
12 ORDER THE SECRETARY OF STATE TO RESCIND THE SUSPENSION, REVOCATION,
13 OR RESTRICTED LICENSE ISSUED PURSUANT TO THIS SECTION.

14 Sec. 7402. (1) Except as authorized by this article, a
15 person shall not create, deliver, or possess with intent to
16 deliver, a counterfeit substance or a controlled substance analogous
17 intended for human consumption. This section shall not apply
18 to a person who manufactures or distributes a substance in con-
19 formance with the provisions of an approved new drug application
20 or an exemption for investigational use within the meaning of
21 section 505 of the federal food, drug, and cosmetic act,
22 21 U.S.C. 355. For purposes of this section, section 505 of the
23 federal food, drug, and cosmetic act shall be applicable to the
24 introduction or delivery for introduction of any new drug into
25 intrastate, interstate, or foreign commerce.

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

1 (a) A counterfeit substance classified in schedule 1 or 2
2 which is either a narcotic drug or described in section
3 7214(a)(iv), is guilty of a felony, punishable by imprisonment
4 for not more than 10 years, or a fine of not more than
5 \$10,000.00, or both.

6 (b) Any other counterfeit substance classified in schedule
7 1, 2, or 3, is guilty of a felony, punishable by imprisonment for
8 not more than 5 years, or a fine of not more than \$5,000.00, or
9 both.

10 (c) A counterfeit substance classified in schedule 4, is
11 guilty of a felony, punishable by imprisonment for not more than
12 4 years, or a fine of not more than \$2,000.00, or both.

13 (d) A counterfeit substance classified in schedule 5, is
14 guilty of a felony, punishable by imprisonment for not more than
15 2 years, or a fine of not more than \$2,000.00, or both.

16 (e) A controlled substance analogue, is guilty of a felony,
17 punishable by imprisonment for not more than 15 years, or a fine
18 of not more than \$250,000.00, or both.

19 (3) THE COURT SHALL ORDER THE SECRETARY OF STATE TO SUSPEND
20 FOR A PERIOD OF NOT LESS THAN 60 DAYS OR MORE THAN 1 YEAR THE
21 MOTOR VEHICLE OPERATOR'S LICENSE OR CHAUFFEUR'S LICENSE OF A
22 PERSON CONVICTED OF VIOLATING THIS SECTION, IF THE PERSON POS-
23 SSESSED A CONTROLLED SUBSTANCE, A CONTROLLED SUBSTANCE ANALOGUE,
24 OR A COUNTERFEIT SUBSTANCE IN A MOTOR VEHICLE UPON A PUBLIC HIGH-
25 WAY OR OTHER PLACE OPEN TO THE GENERAL PUBLIC DURING THE
26 VIOLATION. THE COURT MAY ORDER THE SECRETARY OF STATE TO ISSUE TO
27 THE PERSON A RESTRICTED LICENSE PERMITTING THE PERSON DURING ALL

1 OR A SPECIFIED PORTION OF THE PERIOD OF SUSPENSION TO DRIVE ONLY
2 TO AND FROM THE PERSON'S RESIDENCE AND WORK LOCATION; IN THE
3 COURSE OF THE PERSON'S EMPLOYMENT OR OCCUPATION; TO AND FROM AN
4 ALCOHOL OR DRUG EDUCATION PROGRAM OR TREATMENT PROGRAM AS ORDERED
5 BY THE COURT; TO AND FROM THE PERSON'S RESIDENCE AND AN EDUCA-
6 TIONAL INSTITUTION AT WHICH THE PERSON IS ENROLLED AS A STUDENT;
7 OR PURSUANT TO A COMBINATION OF THESE RESTRICTIONS. THE COURT
8 SHALL NOT ORDER THE SECRETARY OF STATE TO ISSUE A RESTRICTED
9 CHAUFFEUR'S LICENSE WHICH WOULD PERMIT A PERSON TO OPERATE A
10 TRUCK OR TRUCK TRACTOR, INCLUDING A TRAILER, WHICH HAULS HAZARD-
11 OUS MATERIAL. THE COURT SHALL NOT ORDER THE SECRETARY OF STATE
12 TO ISSUE A RESTRICTED LICENSE UNLESS THE PERSON STATES UNDER OATH
13 AND THE COURT FINDS THAT THE PERSON IS UNABLE TO TAKE PUBLIC
14 TRANSPORTATION TO AND FROM HIS OR HER WORK LOCATION, PLACE OF
15 ALCOHOL OR DRUG EDUCATION OR TREATMENT, OR EDUCATIONAL INSTITU-
16 TION, AND DOES NOT HAVE ANY FAMILY MEMBERS OR OTHERS ABLE TO PRO-
17 VIDE TRANSPORTATION. THE COURT ORDER AND LICENSE SHALL INDICATE
18 THE PERSON'S WORK LOCATION AND THE APPROVED ROUTE OR ROUTES AND
19 PERMITTED TIMES OF TRAVEL. FOR PURPOSES OF THIS SUBSECTION,
20 "WORK LOCATION" INCLUDES, AS APPLICABLE, EITHER OR BOTH OF THE
21 FOLLOWING:

22 (A) THE SPECIFIC PLACE OR PLACES OF EMPLOYMENT.

23 (B) THE TERRITORY OR TERRITORIES REGULARLY VISITED BY THE
24 PERSON IN PURSUANCE OF THE PERSON'S OCCUPATION.

25 (4) BEFORE ACCEPTING A PLEA OF GUILTY THAT WILL RESULT IN A
26 LICENSE SUSPENSION UNDER THIS SECTION, THE COURT SHALL ADVISE THE
27 ACCUSED OF THE STATUTORY CONSEQUENCES POSSIBLE AS THE RESULT OF A

1 PLEA OF GUILTY IN RESPECT TO SUSPENSION OF AN OPERATOR'S OR
2 CHAUFFEUR'S LICENSE, THE PENALTY IMPOSED FOR VIOLATION OF THIS
3 SECTION, AND THE LIMITATION ON THE RIGHT OF APPEAL.

4 (5) THE OPERATOR'S OR CHAUFFEUR'S LICENSE OF A PERSON FOUND
5 GUILTY OF VIOLATING THIS SECTION SHALL BE SURRENDERED TO THE
6 COURT IN WHICH THE PERSON WAS CONVICTED, IF THE PERSON POSSESSED
7 A CONTROLLED SUBSTANCE, A CONTROLLED SUBSTANCE ANALOGUE, OR A
8 COUNTERFEIT SUBSTANCE IN A MOTOR VEHICLE UPON A PUBLIC HIGHWAY OR
9 OTHER PLACE OPEN TO THE GENERAL PUBLIC AT THE TIME OF THE
10 VIOLATION. THE COURT SHALL IMMEDIATELY FORWARD THE SURRENDERED
11 LICENSE AND AN ABSTRACT OF CONVICTION TO THE SECRETARY OF STATE.
12 THE ABSTRACT OF CONVICTION SHALL INDICATE THE SENTENCE IMPOSED.
13 UPON RECEIPT OF, AND PURSUANT TO THE ABSTRACT OF CONVICTION, THE
14 SECRETARY OF STATE SHALL SUSPEND THE PERSON'S LICENSE AND, IF
15 ORDERED BY THE COURT AND THE PERSON IS OTHERWISE ELIGIBLE FOR A
16 LICENSE, ISSUE TO THE PERSON A RESTRICTED LICENSE STATING THE
17 LIMITED DRIVING PRIVILEGES INDICATED ON THE ABSTRACT. IF THE
18 LICENSE IS NOT FORWARDED TO THE SECRETARY OF STATE, AN EXPLANA-
19 TION OF THE REASON WHY THE LICENSE IS ABSENT SHALL BE ATTACHED.
20 IF THE CONVICTION IS APPEALED, THE APPELLATE COURT MAY, EX PARTE,
21 ORDER THE SECRETARY OF STATE TO RESCIND THE SUSPENSION, REVOC-
22 TION, OR RESTRICTED LICENSE ISSUED PURSUANT TO THIS SECTION.

23 Sec. 7403. (1) A person shall not knowingly or intention-
24 ally possess a controlled substance or an official prescription
25 form or a prescription form unless the controlled substance,
26 official prescription form, or prescription form was obtained
27 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 20 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 10 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.

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

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

21 (3) The court may depart from the minimum term of imprison-
22 ment authorized under subsection ~~(2)(ii)~~ (2)(A)(ii), (iii), or
23 (iv) if the court finds on the record that there are substantial
24 and compelling reasons to do so.

25 (4) THE COURT SHALL ORDER THE SECRETARY OF STATE TO SUSPEND
26 FOR A PERIOD OF NOT LESS THAN 60 DAYS OR MORE THAN 1 YEAR THE
27 MOTOR VEHICLE OPERATOR'S LICENSE OR CHAUFFEUR'S LICENSE OF A

1 PERSON CONVICTED OF VIOLATING THIS SECTION, IF THE PERSON
2 POSSESSED A CONTROLLED SUBSTANCE, A CONTROLLED SUBSTANCE ANALO-
3 GUE, OR A COUNTERFEIT SUBSTANCE IN A MOTOR VEHICLE UPON A PUBLIC
4 HIGHWAY OR OTHER PLACE OPEN TO THE GENERAL PUBLIC DURING THE
5 VIOLATION. THE COURT MAY ORDER THE SECRETARY OF STATE TO ISSUE TO
6 THE PERSON A RESTRICTED LICENSE PERMITTING THE PERSON DURING ALL
7 OR A SPECIFIED PORTION OF THE PERIOD OF SUSPENSION TO DRIVE ONLY
8 TO AND FROM THE PERSON'S RESIDENCE AND WORK LOCATION; IN THE
9 COURSE OF THE PERSON'S EMPLOYMENT OR OCCUPATION; TO AND FROM AN
10 ALCOHOL OR DRUG EDUCATION PROGRAM OR TREATMENT PROGRAM AS ORDERED
11 BY THE COURT; TO AND FROM THE PERSON'S RESIDENCE AND AN EDUCA-
12 TIONAL INSTITUTION AT WHICH THE PERSON IS ENROLLED AS A STUDENT;
13 OR PURSUANT TO A COMBINATION OF THESE RESTRICTIONS. THE COURT
14 SHALL NOT ORDER THE SECRETARY OF STATE TO ISSUE A RESTRICTED
15 CHAUFFEUR'S LICENSE WHICH WOULD PERMIT A PERSON TO OPERATE A
16 TRUCK OR TRUCK TRACTOR, INCLUDING A TRAILER, WHICH HAULS HAZARD-
17 OUS MATERIAL. THE COURT SHALL NOT ORDER THE SECRETARY OF STATE
18 TO ISSUE A RESTRICTED LICENSE UNLESS THE PERSON STATES UNDER OATH
19 AND THE COURT FINDS THAT THE PERSON IS UNABLE TO TAKE PUBLIC
20 TRANSPORTATION TO AND FROM HIS OR HER WORK LOCATION, PLACE OF
21 ALCOHOL OR DRUG EDUCATION OR TREATMENT, OR EDUCATIONAL INSTITU-
22 TION, AND DOES NOT HAVE ANY FAMILY MEMBERS OR OTHERS ABLE TO PRO-
23 VIDE TRANSPORTATION. THE COURT ORDER AND LICENSE SHALL INDICATE
24 THE PERSON'S WORK LOCATION AND THE APPROVED ROUTE OR ROUTES AND
25 PERMITTED TIMES OF TRAVEL. FOR PURPOSES OF THIS SUBSECTION,
26 "WORK LOCATION" INCLUDES, AS APPLICABLE, EITHER OR BOTH OF THE
27 FOLLOWING:

1 (A) THE SPECIFIC PLACE OR PLACES OF EMPLOYMENT.

2 (B) THE TERRITORY OR TERRITORIES REGULARLY VISITED BY THE
3 PERSON IN PURSUANCE OF THE PERSON'S OCCUPATION.

4 (5) BEFORE ACCEPTING A PLEA OF GUILTY THAT WILL RESULT IN A
5 LICENSE SUSPENSION UNDER THIS SECTION, THE COURT SHALL ADVISE THE
6 ACCUSED OF THE STATUTORY CONSEQUENCES POSSIBLE AS THE RESULT OF A
7 PLEA OF GUILTY IN RESPECT TO SUSPENSION OF AN OPERATOR'S OR
8 CHAUFFEUR'S LICENSE, THE PENALTY IMPOSED FOR VIOLATION OF THIS
9 SECTION, AND THE LIMITATION ON THE RIGHT OF APPEAL.

10 (6) THE OPERATOR'S OR CHAUFFEUR'S LICENSE OF A PERSON FOUND
11 GUILTY OF VIOLATING THIS SECTION SHALL BE SURRENDERED TO THE
12 COURT IN WHICH THE PERSON WAS CONVICTED, IF THE PERSON POSSESSED
13 A CONTROLLED SUBSTANCE, A CONTROLLED SUBSTANCE ANALOGUE, OR A
14 COUNTERFEIT SUBSTANCE IN A MOTOR VEHICLE UPON A PUBLIC HIGHWAY OR
15 OTHER PLACE OPEN TO THE GENERAL PUBLIC AT THE TIME OF THE
16 VIOLATION. THE COURT SHALL IMMEDIATELY FORWARD THE SURRENDERED
17 LICENSE AND AN ABSTRACT OF CONVICTION TO THE SECRETARY OF STATE.
18 THE ABSTRACT OF CONVICTION SHALL INDICATE THE SENTENCE IMPOSED.
19 UPON RECEIPT OF, AND PURSUANT TO THE ABSTRACT OF CONVICTION, THE
20 SECRETARY OF STATE SHALL SUSPEND THE PERSON'S LICENSE AND, IF
21 ORDERED BY THE COURT AND THE PERSON IS OTHERWISE ELIGIBLE FOR A
22 LICENSE, ISSUE TO THE PERSON A RESTRICTED LICENSE STATING THE
23 LIMITED DRIVING PRIVILEGES INDICATED ON THE ABSTRACT. IF THE
24 LICENSE IS NOT FORWARDED TO THE SECRETARY OF STATE, AN EXPLANA-
25 TION OF THE REASON WHY THE LICENSE IS ABSENT SHALL BE ATTACHED.
26 IF THE CONVICTION IS APPEALED, THE APPELLATE COURT MAY, EX PARTE,
27 ORDER THE SECRETARY OF STATE TO RESCIND THE SUSPENSION,

1 REVOCATION, OR RESTRICTED LICENSE ISSUED PURSUANT TO THIS
2 SECTION.

3 Sec. 7404. (1) A person shall not use a controlled sub-
4 stance unless the substance was obtained directly from, or pursu-
5 ant to, a valid prescription or order of a practitioner while
6 acting in the course of the practitioner's professional practice,
7 or except as otherwise authorized by this article.

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

9 (a) A controlled substance classified in schedule 1 or 2
10 which is either a narcotic drug or described in section
11 7214(a)(iv), is guilty of a misdemeanor punishable by imprison-
12 ment for not more than 1 year, or a fine of not more than
13 \$2,000.00, or both.

14 (b) A controlled substance classified in schedule 1, 2, 3,
15 or 4, except a controlled substance classified in schedule 1 for
16 which a penalty is prescribed in subdivision (a), (c), or (d) is
17 guilty of a misdemeanor, punishable by imprisonment for not more
18 than 1 year, or a fine of not more than \$1,000.00, or both.

19 (c) Lysergic acid diethylamide, peyote, mescaline, dimethyl-
20 tryptamine, psilocyn, psilocybin, or a controlled substance clas-
21 sified in schedule 5, is guilty of a misdemeanor, punishable by
22 imprisonment for not more than 6 months, or a fine of not more
23 than \$500.00, or both.

24 (d) Marihuana, is guilty of a misdemeanor, punishable by
25 imprisonment for not more than 90 days, or a fine of not more
26 than \$100.00, or both.

1 (3) THE COURT SHALL ORDER THE SECRETARY OF STATE TO SUSPEND
2 FOR A PERIOD OF NOT LESS THAN 60 DAYS OR MORE THAN 1 YEAR THE
3 MOTOR VEHICLE OPERATOR'S LICENSE OR CHAUFFEUR'S LICENSE OF A
4 PERSON CONVICTED OF VIOLATING THIS SECTION, IF THE PERSON POS-
5 SSESSED A CONTROLLED SUBSTANCE, A CONTROLLED SUBSTANCE ANALOGUE,
6 OR A COUNTERFEIT SUBSTANCE IN A MOTOR VEHICLE UPON A PUBLIC HIGH-
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27 THE PERSON'S WORK LOCATION AND THE APPROVED ROUTE OR ROUTES AND

1 PERMITTED TIMES OF TRAVEL. FOR PURPOSES OF THIS SUBSECTION,
2 "WORK LOCATION" INCLUDES, AS APPLICABLE, EITHER OR BOTH OF THE
3 FOLLOWING:

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17 COUNTERFEIT SUBSTANCE IN A MOTOR VEHICLE UPON A PUBLIC HIGHWAY OR
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19 VIOLATION. THE COURT SHALL IMMEDIATELY FORWARD THE SURRENDERED
20 LICENSE AND AN ABSTRACT OF CONVICTION TO THE SECRETARY OF STATE.
21 THE ABSTRACT OF CONVICTION SHALL INDICATE THE SENTENCE IMPOSED.
22 UPON RECEIPT OF, AND PURSUANT TO THE ABSTRACT OF CONVICTION, THE
23 SECRETARY OF STATE SHALL SUSPEND THE PERSON'S LICENSE AND, IF
24 ORDERED BY THE COURT AND THE PERSON IS OTHERWISE ELIGIBLE FOR A
25 LICENSE, ISSUE TO THE PERSON A RESTRICTED LICENSE STATING THE
26 LIMITED DRIVING PRIVILEGES INDICATED ON THE ABSTRACT. IF THE
27 LICENSE IS NOT FORWARDED TO THE SECRETARY OF STATE, AN

1 EXPLANATION OF THE REASON WHY THE LICENSE IS ABSENT SHALL BE
2 ATTACHED. IF THE CONVICTION IS APPEALED, THE APPELLATE COURT
3 MAY, EX PARTE, ORDER THE SECRETARY OF STATE TO RESCIND THE SUS-
4 PENSION, REVOCATION, OR RESTRICTED LICENSE ISSUED PURSUANT TO
5 THIS SECTION.

6 Sec. 7407. (1) A person shall not knowingly or
7 intentionally:

8 (a) Distribute as a licensee a controlled substance classi-
9 fied in schedule 1 or 2, except pursuant to an order form as
10 required by section 7331.

11 (b) Use in the course of the manufacture or distribution of
12 a controlled substance a license number which is fictitious,
13 revoked, suspended, or issued to another person.

14 (c) Acquire or obtain possession of a controlled substance
15 by misrepresentation, fraud, forgery, deception, or subterfuge.

16 (d) Furnish false or fraudulent material information in, or
17 omit any material information from, an application, report, offi-
18 cial prescription form, or other document required to be kept or
19 filed under this article, or any record required to be kept by
20 this article.

21 (e) Make, distribute, or possess a punch, die, plate, stone,
22 or other thing designed to print, imprint, or reproduce the
23 trademark, trade name, or other identifying mark, imprint, or
24 device of another or any likeness of any of the foregoing upon a
25 drug or container or labeling thereof so as to render the drug a
26 counterfeit substance.

1 (f) Knowingly and intentionally give, permit, or obtain
2 access to information submitted to the department of licensing
3 and regulation under section 7334, except as otherwise authorized
4 by this article.

5 (g) Possess counterfeit prescription forms, except as an
6 agent of government while engaged in the enforcement of this
7 part.

8 (2) A person shall not refuse or knowingly fail to make,
9 keep, or furnish any record, notification, order form, statement,
10 invoice, or other information required under this article.

11 (3) A person who violates this section is guilty of a
12 felony, punishable by imprisonment for not more than 4 years, or
13 a fine of not more than \$30,000.00, or both.

14 (4) THE COURT SHALL ORDER THE SECRETARY OF STATE TO SUSPEND
15 FOR A PERIOD OF NOT LESS THAN 60 DAYS OR MORE THAN 1 YEAR THE
16 MOTOR VEHICLE OPERATOR'S LICENSE OR CHAUFFEUR'S LICENSE OF A
17 PERSON CONVICTED OF VIOLATING THIS SECTION, IF THE PERSON POS-
18 SSESSED A CONTROLLED SUBSTANCE, A CONTROLLED SUBSTANCE ANALOGUE,
19 OR A COUNTERFEIT SUBSTANCE IN A MOTOR VEHICLE UPON A PUBLIC HIGH-
20 WAY OR OTHER PLACE OPEN TO THE GENERAL PUBLIC DURING THE
21 VIOLATION. THE COURT MAY ORDER THE SECRETARY OF STATE TO ISSUE TO
22 THE PERSON A RESTRICTED LICENSE PERMITTING THE PERSON DURING ALL
23 OR A SPECIFIED PORTION OF THE PERIOD OF SUSPENSION TO DRIVE ONLY
24 TO AND FROM THE PERSON'S RESIDENCE AND WORK LOCATION; IN THE
25 COURSE OF THE PERSON'S EMPLOYMENT OR OCCUPATION; TO AND FROM AN
26 ALCOHOL OR DRUG EDUCATION PROGRAM OR TREATMENT PROGRAM AS ORDERED
27 BY THE COURT; TO AND FROM THE PERSON'S RESIDENCE AND AN

1 EDUCATIONAL INSTITUTION AT WHICH THE PERSON IS ENROLLED AS A
2 STUDENT; OR PURSUANT TO A COMBINATION OF THESE RESTRICTIONS. THE
3 COURT SHALL NOT ORDER THE SECRETARY OF STATE TO ISSUE A
4 RESTRICTED CHAUFFEUR'S LICENSE WHICH WOULD PERMIT A PERSON TO
5 OPERATE A TRUCK OR TRUCK TRACTOR, INCLUDING A TRAILER, WHICH
6 HAULS HAZARDOUS MATERIAL. THE COURT SHALL NOT ORDER THE SECRE-
7 TARY OF STATE TO ISSUE A RESTRICTED LICENSE UNLESS THE PERSON
8 STATES UNDER OATH AND THE COURT FINDS THAT THE PERSON IS UNABLE
9 TO TAKE PUBLIC TRANSPORTATION TO AND FROM HIS OR HER WORK LOCA-
10 TION, PLACE OF ALCOHOL OR DRUG EDUCATION OR TREATMENT, OR EDUCA-
11 TIONAL INSTITUTION, AND DOES NOT HAVE ANY FAMILY MEMBERS OR
12 OTHERS ABLE TO PROVIDE TRANSPORTATION. THE COURT ORDER AND
13 LICENSE SHALL INDICATE THE PERSON'S WORK LOCATION AND THE
14 APPROVED ROUTE OR ROUTES AND PERMITTED TIMES OF TRAVEL. FOR PUR-
15 POSES OF THIS SUBSECTION, "WORK LOCATION" INCLUDES, AS APPLICA-
16 BLE, EITHER OR BOTH OF THE FOLLOWING:

17 (A) THE SPECIFIC PLACE OR PLACES OF EMPLOYMENT.

18 (B) THE TERRITORY OR TERRITORIES REGULARLY VISITED BY THE
19 PERSON IN PURSUANCE OF THE PERSON'S OCCUPATION.

20 (5) BEFORE ACCEPTING A PLEA OF GUILTY THAT WILL RESULT IN A
21 LICENSE SUSPENSION UNDER THIS SECTION, THE COURT SHALL ADVISE THE
22 ACCUSED OF THE STATUTORY CONSEQUENCES POSSIBLE AS THE RESULT OF A
23 PLEA OF GUILTY IN RESPECT TO SUSPENSION OF AN OPERATOR'S OR
24 CHAUFFEUR'S LICENSE, THE PENALTY IMPOSED FOR VIOLATION OF THIS
25 SECTION, AND THE LIMITATION ON THE RIGHT OF APPEAL.

26 (6) THE OPERATOR'S OR CHAUFFEUR'S LICENSE OF A PERSON FOUND
27 GUILTY OF VIOLATING THIS SECTION SHALL BE SURRENDERED TO THE

1 COURT IN WHICH THE PERSON WAS CONVICTED, IF THE PERSON POSSESSED
2 A CONTROLLED SUBSTANCE, A CONTROLLED SUBSTANCE ANALOGUE, OR A
3 COUNTERFEIT SUBSTANCE IN A MOTOR VEHICLE UPON A PUBLIC HIGHWAY OR
4 OTHER PLACE OPEN TO THE GENERAL PUBLIC AT THE TIME OF THE
5 VIOLATION. THE COURT SHALL IMMEDIATELY FORWARD THE SURRENDERED
6 LICENSE AND AN ABSTRACT OF CONVICTION TO THE SECRETARY OF STATE.
7 THE ABSTRACT OF CONVICTION SHALL INDICATE THE SENTENCE IMPOSED.
8 UPON RECEIPT OF, AND PURSUANT TO THE ABSTRACT OF CONVICTION, THE
9 SECRETARY OF STATE SHALL SUSPEND THE PERSON'S LICENSE AND, IF
10 ORDERED BY THE COURT AND THE PERSON IS OTHERWISE ELIGIBLE FOR A
11 LICENSE, ISSUE TO THE PERSON A RESTRICTED LICENSE STATING THE
12 LIMITED DRIVING PRIVILEGES INDICATED ON THE ABSTRACT. IF THE
13 LICENSE IS NOT FORWARDED TO THE SECRETARY OF STATE, AN EXPLANA-
14 TION OF THE REASON WHY THE LICENSE IS ABSENT SHALL BE ATTACHED.
15 IF THE CONVICTION IS APPEALED, THE APPELLATE COURT MAY, EX PARTE,
16 ORDER THE SECRETARY OF STATE TO RESCIND THE SUSPENSION, REVOCATION,
17 OR RESTRICTED LICENSE ISSUED PURSUANT TO THIS SECTION.