

HOUSE BILL NO. 5877

March 03, 2022, Introduced by Reps. Rabhi, Thanedar, Cavanagh, Sneller, Cynthia Johnson, Stone, Whitsett, Yancey and Aiyash and referred to the Committee on Regulatory Reform.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 7212, 7214, 7303, 7401, 7401c, 7403, 7404,
7410, 7411, 7413, 7416, 8109, 8111, 8154, 8501, and 8503 (MCL
333.7212, 333.7214, 333.7303, 333.7401, 333.7401c, 333.7403,
333.7404, 333.7410, 333.7411, 333.7413, 333.7416, 333.8109,
333.8111, 333.8154, 333.8501, and 333.8503), sections 7212 and 7303
as amended and sections 8109, 8111, 8154, 8501, and 8503 as added
by 2013 PA 268, section 7214 as amended by 2018 PA 107, section
7401 as amended by 2016 PA 548, section 7401c as amended by 2003 PA

310, section 7403 as amended by 2016 PA 307, section 7404 as amended by 2016 PA 308, section 7410 as amended by 2016 PA 128, section 7411 as amended by 2016 PA 291, section 7413 as amended by 2017 PA 266, and section 7416 as amended by 1995 PA 95.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7212. (1) The following controlled substances are
2 included in schedule 1:

3 (a) Any of the following opiates, including their isomers,
4 esters, the ethers, salts, and salts of isomers, esters, and
5 ethers, unless specifically excepted, when the existence of these
6 isomers, esters, ethers, and salts is possible within the specific
7 chemical designation:

8	Acetylmethadol	Difenoxin	Noracymethadol
9	Allylprodine	Dimenoxadol	Norlevorphanol
10	Alpha-acetylmethadol	Dimepheptanol	Normethadone
11	Alphameprodine	Dimethylthiambutene	Norpipanone
12	Alphamethadol	Dioxaphetyl butyrate	Phenadoxone
13	Benzethidine	Dipipanone	Phenamipromide
14	Betacetylmethadol	Ethylmethylthiambutene	Phenomorphin
15	Betameprodine	Etonitazene	Phenoperidine
16	Betamethadol	Etoxeridine	Piritramide
17	Betaprodine	Furethidine	Proheptazine
18	Clonitazene	Hydroxypethidine	Propoperidine
19	Dextromoramide	Ketobemidone	Propiram
20	Diamipromide	Levomoramide	Racemoramide
21	Diethylthiambutene	Levophenacymorphan	Trimeperidine
22		Morpheridine	

23 (b) Any of the following opium derivatives, their salts,
24 isomers, and salts of isomers, unless specifically excepted, when

1 the existence of these salts, isomers, and salts of isomers is
2 possible within the specific chemical designation:

3	Acetorphine	Drotebanol	Morphine-N-
4			Oxide
5	Acetyldihydrocodeine	Etorphine	Myrophine
6	Benzylmorphine	Heroin	Nicocodeine
7	Codeine methylbromide	Hydromorphenol	Nicomorphine
8	Codeine-N-Oxide	Methyldesorphine	Normorphine
9	Cyprenorphine	Methyldihydromorphine	Pholcodine
10	Desomorphine	Morphine methylbromide	Thebacon
11	Dihydromorphine	Morphine methylsulfonate	

12 (c) Any material, compound, mixture, or preparation which
13 contains any quantity of the following hallucinogenic substances,
14 their salts, isomers, and salts of isomers, unless specifically
15 excepted, when the existence of these salts, isomers, and salts of
16 isomers is possible within the specific chemical designation:

17 2-Methylamino-1-phenylpropan-1-one

18 Some trade and other names:

19 Methcathinone

20 Cat

21 Ephedrone

22 3, 4-methylenedioxy amphetamine

23 5-methoxy-3, 4-methylenedioxy
24 amphetamine

25 3, 4, 5-trimethoxy amphetamine

26 Bufotenine

27 Some trade and other names:

28 3-(B-dimethylaminoethyl)-5 hydroxyindole

29 3-(2-dimethylaminoethyl)-5 indolol

1 N,N-dimethylserotonin; 5-hydroxy-N-dimethyltryptamine
2 Mappine
3 2, 5-Dimethoxyamphetamine
4 Some trade or other names:
5 2, 5-Dimethoxy-a-methylphenethylamine; 2,5-DMA
6 4-Bromo-2, 5-Dimethoxyamphetamine
7 Some trade or other names:
8 4-bromo-2, 5 dimethoxy-a-methylphenethylamine; 4-bromo
9 2,5-DMA
10 Diethyltryptamine
11 Some trade and other names:
12 N,N-Diethyltryptamine; DET
13 Dimethyltryptamine
14 Some trade or other names:
15 DMT
16 4-methyl-2, 5-dimethoxyamphetamine
17 Some trade and other names:
18 4-methyl-2, 5-dimethoxy-a-methyl-phenethylamine
19 DOM, STP
20 4-methoxyamphetamine
21 Some trade or other names:
22 4-methoxy-a-methylphenethylamine; paramethoxy amphetamine;
23 PMA
24 Ibogaine
25 Some trade and other names:
26 7-Ethyl-6,6a,7,8,9,10,12,13
27 Octahydro-2-methoxy-6,9-methano-5H-
28 pyrido (1, 2:1, 2 azepino 4, 5-b) indole
29 tabernanthe iboga

1 Lysergic acid diethylamide
 2 ~~Except as provided in subsection (2), Marihuana, including~~
 3 ~~pharmaceutical-grade cannabis~~
 4 Mecloqualone
 5 Mescaline
 6 Peyote
 7 N-ethyl-3 piperidyl benzilate
 8 N-methyl-3 piperidyl benzilate
 9 Psilocybin
 10 Psilocyn
 11 Thiophene analog of phencyclidine
 12 Some trade or other names:
 13 1-(1-(2-thienyl)cyclohexyl) piperidine
 14 2-thienyl analog of phencyclidine; TCP
 15 (d) Synthetic equivalents of the substances contained in the
 16 plant, or in the resinous extractives of cannabis and synthetic
 17 substances, derivatives, and their isomers with similar chemical
 18 structure or pharmacological activity, or both, such as the
 19 following, are included in schedule 1:
 20 (i) Δ^1 cis or trans tetrahydrocannabinol, and their optical
 21 isomers.
 22 (ii) Δ^6 cis or trans tetrahydrocannabinol, and their optical
 23 isomers.
 24 (iii) $\Delta^3,4$, cis or trans tetrahydrocannabinol, and their
 25 optical isomers.
 26 (e) Synthetic cannabinoids. As used in this subdivision,
 27 "synthetic cannabinoids" includes any material, compound, mixture,
 28 or preparation that is not otherwise listed as a controlled
 29 substance in this schedule or in schedules ~~II-2~~ through ~~V, 5~~, is

1 not approved by the ~~federal food~~ **United States Food** and ~~drug~~
2 ~~administration~~ **Drug Administration** as a drug, and contains any
3 quantity of the following substances, their salts, isomers (whether
4 optical, positional, or geometric), homologues (analogs), and salts
5 of isomers and homologues (analogs), unless specifically excepted,
6 whenever the existence of these salts, isomers, homologues
7 (analogs), and salts of isomers and homologues (analogs) is
8 possible within the specific chemical designation:

9 (i) Any compound containing a 3-(1-naphthoyl)indole structure,
10 also known as naphthoylindoles, with substitution at the nitrogen
11 atom of the indole ring by an alkyl, haloalkyl, alkenyl,
12 cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
13 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not
14 further substituted on the indole ring to any extent and whether or
15 not substituted on the naphthyl ring to any extent. Examples of
16 this structural class include but are not limited to: JWH-007, JWH-
17 015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-122, JWH-200, JWH-210,
18 JWH-398, AM-1220, AM-2201, and WIN-55, 212-2.

19 (ii) Any compound containing a 1H-indol-3-yl-(1-
20 naphthyl)methane structure, also known as naphthylmethylinindoles,
21 with substitution at the nitrogen atom of the indole ring by an
22 alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-
23 methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group,
24 whether or not further substituted on the indole ring to any extent
25 and whether or not substituted on the naphthyl ring to any extent.
26 Examples of this structural class include but are not limited to:
27 JWH-175, and JWH-184.

28 (iii) Any compound containing a 3-(1-naphthoyl)pyrrole
29 structure, also known as naphthoylpyrroles with substitution at the

1 nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl,
2 cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
3 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not
4 further substituted on the pyrrole ring to any extent and whether
5 or not substituted on the naphthyl ring to any extent. Examples of
6 this structural class include but are not limited to: JWH-370, JWH-
7 030.

8 (iv) Any compound containing a naphthylideneindene structure
9 with substitution at the 3-position of the indene ring by an alkyl,
10 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-
11 2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or
12 not further substituted on the indene ring to any extent and
13 whether or not substituted on the naphthyl ring to any extent.
14 Examples of this structural class include but are not limited to:
15 JWH-176.

16 (v) Any compound containing a 3-phenylacetylindole structure,
17 also known as phenacetylindoles, with substitution at the nitrogen
18 atom of the indole ring by an alkyl, haloalkyl, alkenyl,
19 cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
20 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not
21 further substituted on the indole ring to any extent and whether or
22 not substituted on the phenyl ring to any extent. Examples of this
23 structural class include but are not limited to: RCS-8 (SR-18),
24 JWH-250, JWH-203, JWH-251, and JWH-302.

25 (vi) Any compound containing a 2-(3-hydroxycyclohexyl)phenol
26 structure, also known as cyclohexylphenols, with substitution at
27 the 5-position of the phenolic ring by an alkyl, haloalkyl,
28 alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
29 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not

1 substituted on the cyclohexyl ring to any extent. Examples of this
2 structural class include but are not limited to: CP-47,497 (and
3 homologues (analogs)), cannabicyclohexanol, and CP-55,940.

4 (vii) Any compound containing a 3-(benzoyl)indole structure,
5 also known as benzoylindoles, with substitution at the nitrogen
6 atom of the indole ring by an alkyl, haloalkyl, alkenyl,
7 cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
8 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not
9 further substituted on the indole ring to any extent and whether or
10 not substituted on the phenyl ring to any extent. Examples of this
11 structural class include but are not limited to: AM-694,
12 pravadoline (WIN-48,098), RCS-4, AM-630, AM-679, AM-1241, and AM-
13 2233.

14 (viii) Any compound containing a 11-hydroxy- Δ^8 -
15 tetrahydrocannabinol structure, also known as dibenzopyrans, with
16 further substitution on the 3-pentyl group by an alkyl, haloalkyl,
17 alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
18 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group. Examples of
19 this structural class include but are not limited to: HU-210, JWH-
20 051, JWH-133.

21 (ix) Any compound containing a ~~3-(1-adamantoyl)indole~~ **3-(1-**
22 **adamantoyl)indole** structure, also known as adamantoylindoles, with
23 substitution at the nitrogen atom of the indole ring by an alkyl,
24 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-
25 2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or
26 not further substituted on the adamantyl ring system to any extent.
27 Examples of this structural class include but are not limited to:
28 AM-1248.

29 (x) Any other synthetic chemical compound that is a

1 cannabinoid receptor agonist and mimics the pharmacological effect
 2 of naturally occurring cannabinoids that is not listed in schedules
 3 ~~II-2~~ through ~~V-5~~ and is not approved by the ~~federal food~~ **United**
 4 **States Food** and ~~drug administration~~ **Drug Administration** as a drug.

5 (f) Compounds of structures referred to in subdivision (d),
 6 regardless of numerical designation of atomic positions, are
 7 included.

8 (g) Gamma-hydroxybutyrate and any isomer, salt, or salt of
 9 isomer of gamma-hydroxybutyrate.

10 Some trade and other names:

11 Sodium oxybate

12 4-hydroxybutanoic acid monosodium salt

13 (h) 3,4-methylenedioxymethamphetamine.

14 Some trade and other names:

15 Ecstasy

16 MDMA

17 (i) N-Benzylpiperazine

18 Some trade and other names:

19 BZP

20 Benzylpiperazine

21 1-(phenylmethyl)-piperazine

22 (j) 3-Chlorophenylpiperazine

23 Some trade and other names:

24 MCPP

25 (k) 1-(3-Trifluoromethylphenyl)piperazine

26 Some trade and other names:

27 TFMPP

28 (l) 4-Bromo-2,5-dimethoxybenzylpiperazine

29 Some trade and other names:

1 2C-B-BZP

2 (m) All of the following:

3 (i) (6aR,10aR)-9-(Hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-
4 2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol.

5 Some trade and other names:

6 HU-210

7 (ii) 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-
8 yl)phenol and its side chain homologues.

9 Some trade and other names:

10 CP47,497

11 (iii) 1-pentyl-3-(1-naphthoyl)indole.

12 Some trade and other names:

13 JWH-018

14 (iv) 1-butyl-3-(1-naphthoyl)indole.

15 Some trade and other names:

16 JWH-073

17 (v) (2-methyl-1-propyl-1H-indol-3-yl)-1-naphthalenyl-
18 methanone.

19 Some trade and other names:

20 JWH-015

21 (vi) [1-[2-(4-morpholinyl)ethyl]-1H-indol-3-yl]-1-naphthalenyl-
22 methanone.

23 Some trade and other names:

24 JWH-200

25 (vii) 1-(1-pentyl-1H-indol-3-yl)-2-(2-methoxyphenyl)-ethanone.

26 Some trade and other names:

27 JWH-250

28 (n) Mephedrone (4-methylmethcathinone).

1 Some trade and other names:

2 4-MMC, M-Cat, meow meow, miaow miaow, bounce, bubbles,
3 bubble love, mad cow, plant food, drone, and neo doves

4 (o) 4-Methyl-alpha-pyrrolidinobutyrophenone.

5 Some trade and other names:

6 MPBP

7 (p) Methylenedioxyprovalerone

8 Some trade and other names:

9 MDPV, Bath salts, charge plus, cloud nine, hurricane Charlie,
10 ivory wave, ocean, red dove, scarface, sonic, white dove,
11 white lightning

12 (q) 5,6-Methylenedioxy-2-aminoindane

13 Some trade and other names:

14 MDAI

15 Woof-woof

16 (r) Naphyrone (Naphthylpyrovalerone)

17 Some trade and other names:

18 NRG-1

19 Rave

20 (s) Pyrovalerone (1-(4-Methylphenyl)-2-(1-pyrrolidinyl)-1-
21 pentanone)

22 (t) ~~Catha edulis~~; **Catha edulis**; except as provided in
23 subdivision (u) and section 7218, all parts of the plant presently
24 classified botanically as ~~catha edulis~~, **Catha edulis**, whether
25 growing or not; the leaves and seeds of that plant; any extract
26 from any part of that plant; and every compound, salt, derivative,
27 mixture, or preparation of that plant or its leaves, seeds, or
28 extracts.

29 Some trade and other names:

1 Khat

2 Qat

3 (u) Cathinone.

4 (v) ~~Salvia divinorum;~~ **Salvia divinorum**; except as provided in
5 subdivision (w), all parts of the plant presently classified
6 botanically as ~~salvia divinorum,~~ **Salvia divinorum**, whether growing
7 or not; the leaves and seeds of that plant; any extract from any
8 part of that plant; and every compound, salt, derivative, mixture,
9 or preparation of that plant or its leaves, seeds, or extracts.

10 (w) Salvinorin A.

11 (x) Synthetic cathinones. As used in this subdivision,
12 "synthetic cathinones" includes any material, compound, mixture, or
13 preparation that is not otherwise listed as a controlled substance
14 in this schedule or in schedules ~~II-2~~ through ~~V, 5~~, is not approved
15 by the ~~federal food~~ **United States Food** and ~~drug administration~~ **Drug**
16 **Administration** as a drug, and contains any quantity of the
17 following substances, their salts, isomers (whether optical,
18 positional, or geometric), homologues (analogs), and salts of
19 isomers and homologues (analogs), unless specifically excepted,
20 whenever the existence of these salts, isomers, homologues
21 (analogs), and salts of isomers and homologues (analogs) is
22 possible within the specific chemical designation:

23 (i) Any compound containing a 2-amino-1-propanone structure
24 with substitution at the 1-position with a monocyclic or fused
25 polycyclic ring system and a substitution at the nitrogen atom by
26 an alkyl group, cycloalkyl group, or incorporation into a
27 heterocyclic structure. Examples of this structural class include,
28 but are not limited to, dimethylcathinone, ethcathinone, and alpha-
29 pyrrolidinopropiophenone.

1 (ii) Any compound containing a 2-amino-1-propanone structure
2 with substitution at the 1-position with a monocyclic or fused
3 polycyclic ring system and a substitution at the 3-position carbon
4 with an alkyl, haloalkyl, or alkoxy group. Examples of this
5 structural class include, but are not limited to, naphyrone.

6 (iii) Any compound containing a 2-amino-1-propanone structure
7 with substitution at the 1-position with a monocyclic or fused
8 polycyclic ring system and a substitution at any position of the
9 ring system with an alkyl, haloalkyl, halogen, alkylendioxy, or
10 alkoxy group, whether or not further substituted at any position on
11 the ring system to any extent. Examples of this structural class
12 include, but are not limited to, mephedrone, methylone, and 3-
13 fluoromethylone.

14 ~~(2) Marihuana, including pharmaceutical-grade cannabis, is a~~
15 ~~schedule 2 controlled substance if it is manufactured, obtained,~~
16 ~~stored, dispensed, possessed, grown, or disposed of in compliance~~
17 ~~with this act and as authorized by federal authority.~~

18 (2) ~~(3)~~For purposes of subsection (1), "isomer" includes the
19 optical, position, and geometric isomers.

20 Sec. 7214. The following controlled substances are included in
21 schedule 2:

22 (a) Any of the following substances, except those narcotic
23 drugs listed in other schedules, whether produced directly or
24 indirectly by extraction from substances of vegetable origin, or
25 independently by means of chemical synthesis, or by combination of
26 extraction and chemical synthesis:

27 (i) Opium and opiate, and any salt, compound, derivative, or
28 preparation of opium or opiate excluding nalaxone and its salts,
29 and excluding naltrexone and its salts, but including the

1 following:

2	Raw opium	Etorphine hydrochloride
3	Opium extracts	Hydrocodone
4	Opium Fluid-extracts	Hydromorphone
5	Powdered opium	Metopon
6	Granulated opium	Morphine
7	Tincture of opium	Oxycodone
8	Codeine	Oxymorphone
9	Ethylmorphine	Thebaine

10 (ii) A salt, compound, derivative, or preparation thereof which
 11 is chemically equivalent to or identical with a substance referred
 12 to in this subdivision, except that these substances do not include
 13 the isoquinoline alkaloids of opium.

14 (iii) Opium poppy, poppy straw, and concentrate of poppy straw,
 15 the crude extract of poppy straw in either liquid, solid, or powder
 16 form, which contains the phenanthrene alkaloids of the opium poppy.

17 (iv) Coca leaves and any salt, compound, derivative, or
 18 preparation thereof ~~which~~**that** is chemically equivalent to or
 19 identical with any of these substances, except that the substances
 20 do not include decocainized coca leaves or extraction of coca
 21 leaves which extractions do not contain cocaine or ecgonine. The
 22 substances include cocaine, its salts, stereoisomers, and salts of
 23 stereoisomers when the existence of the salts, stereoisomers, and
 24 salts of stereoisomers is possible within the specific chemical
 25 designation.

26 (b) Any of the following opiates, including their isomers,
 27 esters, ethers, salts, and salts of isomers, when the existence of
 28 these isomers, esters, ethers, and salts is possible within the
 29 specific chemical designation:

1	Alphaprodine	Fentanyl
2	Anileridine	Isomethadone
3	Bezitramide	Levomethorphan
4	Dihydrocodeine	Levorphanol
5	Diphenoxylate	Metazocine
6		
7		Methadone
8	Methadone-Intermediate, 4-cyano-2dimethylamino-4, 4-diphenyl butane	
9	Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-	
10	carboxylic acid	
11		
12		Pethidine
13	Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine	
14	Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate	
15	Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid	
16		
17	Phenazocine	Racemethorphan
18	Piminodine	Racemorphan
19	(c) Unless listed in another schedule, any material, compound,	
20	mixture, or preparation which contains any quantity of the	
21	following substances having potential for abuse associated with a	
22	stimulant effect on the nervous system:	
23	(i) Amphetamine, its salts, optical isomers, and salts of its	
24	optical isomers.	
25	(ii) Any substance which contains any quantity of	
26	methamphetamine, including its salts, stereoisomers, and salts of	
27	stereoisomers.	
28	(iii) Phenmetrazine and its salts.	
29	(iv) Methylphenidate and its salts.	

1 (d) Any material, compound, mixture, or preparation, including
2 its salts, isomers, and salts of isomers when the existence of the
3 salts, isomers, and salts of isomers is possible within the
4 specific chemical designation as listed in schedule 2, which
5 contains any quantity of the following substances having a
6 potential for abuse associated with the depressant effect on the
7 central nervous system: methaqualone, amobarbital, pentobarbital,
8 or secobarbital; or, any compound, mixture, or preparation
9 containing amobarbital, secobarbital, pentobarbital, or any salt
10 thereof in combination with itself, with another, or with 1 or more
11 other controlled substances.

12 ~~(e) Marihuana, but only for the purpose of treating a~~
13 ~~debilitating medical condition as that term is defined in section~~
14 ~~3(b) of the Michigan medical marihuana act, 2008 IL 1, MCL~~
15 ~~333.26423, and as authorized under this act.~~

16 (e) ~~(f)~~—Tianeptine sodium.

17 Sec. 7303. (1) A person who manufactures, distributes,
18 prescribes, or dispenses a controlled substance in this state or
19 who proposes to engage in the manufacture, distribution,
20 prescribing, or dispensing of a controlled substance in this state
21 shall obtain a license issued by the administrator in accordance
22 with the rules. A person who has been issued a controlled
23 substances license by the administrator under this article and a
24 license under article 15 shall renew the controlled substances
25 license concurrently with the renewal of the license issued under
26 article 15, and for an equal number of years.

27 (2) A person licensed by the administrator under this article
28 to manufacture, distribute, prescribe, dispense, or conduct
29 research with controlled substances may possess, manufacture,

1 distribute, prescribe, dispense, or conduct research with those
 2 substances to the extent authorized by its license and in
 3 conformity with the other provisions of this article.

4 ~~(3) A license issued under this article to manufacture,~~
 5 ~~distribute, prescribe, or dispense pharmaceutical-grade cannabis~~
 6 ~~and the conduct of the licensee is subject to the additional~~
 7 ~~requirements of article 8.~~

8 (3) ~~(4)~~—The following persons need not be licensed and may
 9 lawfully possess controlled substances or prescription forms under
 10 this article:

11 (a) An agent or employee of a licensed manufacturer,
 12 distributor, prescriber, or dispenser of a controlled substance if
 13 acting in the usual course of the agent's or employee's business or
 14 employment.

15 (b) A common or contract carrier or warehouseman, or an
 16 employee thereof, whose possession of a controlled substance or
 17 prescription form is in the usual course of business or employment.

18 (c) An ultimate user or agent in possession of a controlled
 19 substance or prescription form pursuant to a lawful order of a
 20 practitioner or in lawful possession of a schedule 5 **controlled**
 21 substance.

22 (4) ~~(5)~~—The administrator may waive or include by rule the
 23 requirement for licensure of certain manufacturers, distributors,
 24 prescribers, or dispensers, if it finds the waiver or inclusion is
 25 consistent with the public health and safety.

26 (5) ~~(6)~~—A separate license is required at each principal place
 27 of business or professional practice where the applicant
 28 manufactures, distributes, prescribes, or dispenses controlled
 29 substances.

1 (6) ~~(7)~~—As a requisite for licensure, the administrator may
 2 inspect the establishment of a licensee or applicant for licensure
 3 in accordance with the administrator's rule.

4 (7) ~~(8)~~—A person licensed under this article to distribute
 5 controlled substances shall report to the administrator on a
 6 quarterly basis all schedule 2 controlled substances and those
 7 controlled substances designated by the administrator pursuant to
 8 this subsection that are sold to licensed practitioners and retail
 9 pharmacies. The report ~~shall~~**must** be in writing and ~~shall~~include
 10 the name of each licensed practitioner and retail pharmacy to whom
 11 the controlled substance was distributed. A report under this
 12 subsection may be transmitted electronically, if the transmission
 13 is ultimately reduced to writing. The administrator shall designate
 14 by rule the controlled substances in schedules 3 to 5 to be
 15 reported under this subsection.

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

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

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

28 (i) Which is in an amount of 1,000 grams or more of any mixture
 29 containing that substance is guilty of a felony punishable by

1 imprisonment for life or any term of years or a fine of not more
2 than \$1,000,000.00, or both.

3 (ii) Which is in an amount of 450 grams or more, but less than
4 1,000 grams, of any mixture containing that substance is guilty of
5 a felony and punishable by imprisonment for not more than 30 years
6 or a fine of not more than \$500,000.00, or both.

7 (iii) Which is in an amount of 50 grams or more, but less than
8 450 grams, of any mixture containing that substance is guilty of a
9 felony punishable by imprisonment for not more than 20 years or a
10 fine of not more than \$250,000.00, or both.

11 (iv) Which is in an amount less than 50 grams, of any mixture
12 containing that substance is guilty of a felony punishable by
13 imprisonment for not more than 20 years or a fine of not more than
14 \$25,000.00, or both.

15 (b) Either of the following:

16 (i) A substance described in section 7212(1)(h) or 7214(c) (ii)
17 is guilty of a felony punishable by imprisonment for not more than
18 20 years or a fine of not more than \$25,000.00, or both.

19 (ii) Any other controlled substance classified in schedule 1,
20 2, or 3, except ~~marihuana or~~ a substance listed in section
21 7212(1)(d), is guilty of a felony punishable by imprisonment for
22 not more than 7 years or a fine of not more than \$10,000.00, or
23 both.

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

27 (d) ~~Marihuana, a mixture containing marihuana, or a~~ **A**
28 substance listed in section 7212(1)(d) is guilty of a felony
29 punishable as follows:

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

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

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

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

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

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

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

1 motion seeking resentencing under this subsection.

2 ~~(5) As used in this section, "plant" means a marihuana plant~~
3 ~~that has produced cotyledons or a cutting of a marihuana plant that~~
4 ~~has produced cotyledons.~~

5 Sec. 7401c. (1) A person shall not do any of the following:

6 (a) Own, possess, or use a vehicle, building, structure,
7 place, or area that he or she knows or has reason to know is to be
8 used as a location to manufacture a controlled substance in
9 violation of section 7401 or a counterfeit substance or a
10 controlled substance analogue in violation of section 7402.

11 (b) Own or possess any chemical or any laboratory equipment
12 that he or she knows or has reason to know is to be used for the
13 purpose of manufacturing a controlled substance in violation of
14 section 7401 or a counterfeit substance or a controlled substance
15 analogue in violation of section 7402.

16 (c) Provide any chemical or laboratory equipment to another
17 person knowing or having reason to know that the other person
18 intends to use that chemical or laboratory equipment for the
19 purpose of manufacturing a controlled substance in violation of
20 section 7401 or a counterfeit substance or a controlled substance
21 analogue in violation of section 7402.

22 (2) A person who violates this section is guilty of a felony
23 punishable as follows:

24 (a) Except as provided in subdivisions (b) to (f), by
25 imprisonment for not more than 10 years or a fine of not more than
26 \$100,000.00, or both.

27 (b) If the violation is committed in the presence of a minor,
28 by imprisonment for not more than 20 years or a fine of not more
29 than \$100,000.00, or both.

1 (c) If the violation involves the unlawful generation,
2 treatment, storage, or disposal of a hazardous waste, by
3 imprisonment for not more than 20 years or a fine of not more than
4 \$100,000.00, or both.

5 (d) If the violation occurs within 500 feet of a residence,
6 business establishment, school property, or church or other house
7 of worship, by imprisonment for not more than 20 years or a fine of
8 not more than \$100,000.00, or both.

9 (e) If the violation involves the possession, placement, or
10 use of a firearm or any other device designed or intended to be
11 used to injure another person, by imprisonment for not more than 25
12 years or a fine of not more than \$100,000.00, or both.

13 (f) If the violation involves or is intended to involve the
14 manufacture of a substance described in section 7214(c) (ii), by
15 imprisonment for not more than 20 years or a fine of not more than
16 \$25,000.00, or both.

17 (3) This section does not apply to a violation involving only
18 a substance described in section 7214(a) (iv). ~~or marihuana, or both.~~

19 (4) This section does not prohibit the person from being
20 charged with, convicted of, or punished for any other violation of
21 law committed by that person while violating or attempting to
22 violate this section.

23 (5) A term of imprisonment imposed under this section may be
24 served consecutively to any other term of imprisonment imposed for
25 a violation of law arising out of the same transaction.

26 (6) The court may, as a condition of sentence, order a person
27 convicted of a violation punishable under subsection (2) (c) to pay
28 response activity costs arising out of the violation.

29 (7) As used in this section:

1 (a) "Hazardous waste" means that term as defined in section
2 11103 of the natural resources and environmental protection act,
3 1994 PA 451, MCL 324.11103.

4 (b) "Laboratory equipment" means any equipment, device, or
5 container used or intended to be used in the process of
6 manufacturing a controlled substance, counterfeit substance, or
7 controlled substance analogue.

8 (c) "Manufacture" means the production, preparation,
9 propagation, compounding, conversion, or processing of a controlled
10 substance, directly or indirectly by extraction from substances of
11 natural origin, or independently by means of chemical synthesis, or
12 by a combination of extraction and chemical synthesis. Manufacture
13 does not include any of the following:

14 (i) The packaging or repackaging of the substance or labeling
15 or relabeling of its container.

16 (ii) The preparation or compounding of a controlled substance
17 by any of the following:

18 (A) A practitioner as an incident to the practitioner's
19 administering or dispensing of a controlled substance in the course
20 of his or her professional practice.

21 (B) A practitioner, or by the practitioner's authorized agent
22 under his or her supervision, for the purpose of, or as an incident
23 to, research, teaching, or chemical analysis and not for sale.

24 (d) "Minor" means an individual less than 18 years of age.

25 (e) "Response activity costs" means that term as defined in
26 section 20101 of the natural resources and environmental protection
27 act, 1994 PA 451, MCL 324.20101.

28 (f) "School property" means that term as defined in section
29 7410.

1 (g) "Vehicle" means that term as defined in section 79 of the
2 Michigan vehicle code, 1949 PA 300, MCL 257.79.

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~~ **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 or who requires medical assistance and is presented for

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

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

19 (4) A health facility or agency shall develop a process for
20 notification of the parent or parents, guardian, or custodian of a
21 minor under the age of 18 who is not emancipated under 1968 PA 293,
22 MCL 722.1 to 722.6, and who voluntarily presents himself or
23 herself, or is presented by another individual if he or she is
24 incapacitated, to a health facility or agency for emergency medical
25 treatment as provided in subsection (3). A health facility or
26 agency shall not provide notification to a parent or parents,
27 guardian, or custodian under this subsection for nonemergency
28 treatment without obtaining the minor's consent.

29 (5) The exemption from prosecution under this section provided

1 in subsection (3) does not prevent the investigation, arrest,
2 charging, or prosecution of an individual for any other violation
3 of the laws of this state or be grounds for suppression of evidence
4 in the prosecution of any other criminal charges.

5 (6) 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 (7) As used in this section:

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

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

29 Sec. 7404. (1) A person shall not use a controlled substance

1 or controlled substance analogue unless the substance was obtained
 2 directly from, or pursuant to, a valid prescription or order of a
 3 practitioner while acting in the course of the practitioner's
 4 professional practice, or except as otherwise authorized by this
 5 article.

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

7 (a) A controlled substance classified in schedule 1 or 2 as a
 8 narcotic drug or a drug described in section 7212(1)(h) or
 9 7214(a)(iv) or (c)(ii) is guilty of a misdemeanor punishable by
 10 imprisonment for not more than 1 year or a fine of not more than
 11 \$2,000.00, or both.

12 (b) A controlled substance classified in schedule 1, 2, 3, or
 13 4, except a controlled substance for which a penalty is prescribed
 14 in subdivision (a), (c), or (d), or a controlled substance
 15 analogue, is guilty of a misdemeanor punishable by imprisonment for
 16 not more than 1 year or a fine of not more than \$1,000.00, or both.

17 (c) Lysergic acid diethylamide, peyote, mescaline,
 18 dimethyltryptamine, psilocyn, psilocybin, or a controlled substance
 19 classified in schedule 5 is guilty of a misdemeanor punishable by
 20 imprisonment for not more than 6 months or a fine of not more than
 21 \$500.00, or both.

22 (d) ~~Marihuana, catha edulis, salvia divinorum,~~ **Catha edulis,**
 23 **Salvia divinorum,** or a substance described in section 7212(1)(d) or
 24 (i) is guilty of a misdemeanor punishable by imprisonment for not
 25 more than 90 days or a fine of not more than \$100.00, 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 or who requires medical assistance and is presented for

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

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

19 (4) A health facility or agency shall develop a process for
20 notification of the parent or parents, guardian, or custodian of a
21 minor under the age of 18 who is not emancipated under 1968 PA 293,
22 MCL 722.1 to 722.6, and who voluntarily presents himself or
23 herself, or is presented by another individual if he or she is
24 incapacitated, to a health facility or agency for emergency medical
25 treatment as provided in subsection (3). A health facility or
26 agency shall not provide notification to a parent or parents,
27 guardian, or custodian under this subsection for nonemergency
28 treatment without obtaining the minor's consent.

29 (5) The exemption from prosecution under this section provided

1 in subsection (3) does not prevent the investigation, arrest,
2 charging, or prosecution of an individual for any other violation
3 of the laws of this state, or be grounds for suppression of
4 evidence in the prosecution of any other criminal charges.

5 (6) As used in this section:

6 (a) "Drug overdose" means a condition including, but not
7 limited to, extreme physical illness, decreased level of
8 consciousness, respiratory depression, coma, mania, or death, that
9 is the result of consumption or use of a controlled substance or a
10 controlled substance analogue or a substance with which the
11 controlled substance or controlled substance analogue was combined,
12 or that a layperson would reasonably believe to be a drug overdose
13 that requires medical assistance.

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

18 Sec. 7410. (1) Except as otherwise provided in subsections (2)
19 and (3), an individual 18 years of age or over who violates section
20 7401(2) (a) (iv) by delivering or distributing a controlled substance
21 listed in schedule 1 or 2 that is either a narcotic drug or
22 described in section 7214(a) (iv) to an individual under 18 years of
23 age who is at least 3 years the deliverer's or distributor's junior
24 may be punished by the fine authorized by section 7401(2) (a) (iv) or
25 by a term of imprisonment of not less than 1 year nor more than
26 twice that authorized by section 7401(2) (a) (iv), or both. An
27 individual 18 years of age or over who violates section 7401 or
28 7401b by delivering or distributing any other controlled substance
29 listed in schedules 1 to 5 or gamma-butyrolactone to an individual

1 under 18 years of age who is at least 3 years the distributor's
2 junior may be punished by the fine authorized by section
3 7401(2) (b), (c), or (d) or 7401b, or by a term of imprisonment not
4 more than twice that authorized by section 7401(2) (b), (c), or (d)
5 or 7401b, or both.

6 (2) An individual 18 years of age or over who violates section
7 7401(2) (a) (iv) by delivering a controlled substance described in
8 schedule 1 or 2 that is either a narcotic drug or described in
9 section 7214(a) (iv) to another person on or within 1,000 feet of
10 school property or a library shall be punished, subject to
11 subsection (5), by a term of imprisonment of not less than 2 years
12 or more than 3 times that authorized by section 7401(2) (a) (iv) and,
13 in addition, may be punished by a fine of not more than 3 times
14 that authorized by section 7401(2) (a) (iv).

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

24 (4) An individual 18 years of age or over who violates section
25 7401b or 7403(2) (a) (v), (b), (c), or (d) by possessing gamma-
26 butyrolactone or a controlled substance on or within 1,000 feet of
27 school property or a library shall be punished by a term of
28 imprisonment or a fine, or both, of not more than twice that
29 authorized by section 7401b or 7403(2) (a) (v), (b), (c), or (d).

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

4 (6) An individual 18 years of age or over who violates section
5 7401 by manufacturing methamphetamine as that term is described in
6 section 7214(c) (ii) on or within 1,000 feet of school property or a
7 library shall be punished by a term of imprisonment or a fine, or
8 both, of not more than twice that authorized by section
9 7401(2) (b) (i) .

10 ~~(7) A person who distributes marihuana without remuneration
11 and not to further commercial distribution and who does not violate
12 subsection (1) is guilty of a misdemeanor punishable by
13 imprisonment for not more than 1 year or a fine of not more than
14 \$1,000.00, or both, unless the distribution is in accordance with
15 the federal law or the law of this state.~~

16 (7) ~~(8)~~As used in this section:

17 (a) "Library" means a library that is established by the
18 state; a county, city, township, village, school district, or other
19 local unit of government or authority or combination of local units
20 of government and authorities; a community college district; a
21 college or university; or any private library open to the public.

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

28 Sec. 7411. (1) When an individual who has not previously been
29 convicted of an offense under this article or under any statute of

1 the United States or of any state relating to narcotic drugs, coca
 2 leaves, ~~marihuana,~~ or stimulant, depressant, or hallucinogenic
 3 drugs, pleads guilty to or is found guilty of possession of a
 4 controlled substance under section 7403(2)(a)(v), 7403(2)(b), (c),
 5 or (d), or of use of a controlled substance under section 7404, or
 6 possession or use of an imitation controlled substance under
 7 section 7341 for a second time, the court, without entering a
 8 judgment of guilt with the consent of the accused, may defer
 9 further proceedings and place the individual on probation upon
 10 terms and conditions that shall include, but are not limited to,
 11 payment of a probation supervision fee as prescribed in section 3c
 12 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL
 13 771.3c. The terms and conditions of probation may include
 14 participation in a drug treatment court under chapter 10A of the
 15 revised judicature act of 1961, 1961 PA 236, MCL 600.1060 to
 16 ~~600.1084.~~ **600.1088**. Upon violation of a term or condition, the
 17 court may enter an adjudication of guilt and proceed as otherwise
 18 provided. Upon fulfillment of the terms and conditions, the court
 19 shall discharge the individual and dismiss the proceedings.
 20 Discharge and dismissal under this section ~~shall~~ **must** be without
 21 adjudication of guilt and, except as otherwise provided by law, is
 22 not a conviction for purposes of this section or for purposes of
 23 disqualifications or disabilities imposed by law upon conviction of
 24 a crime, including the additional penalties imposed for second or
 25 subsequent convictions under section 7413. There may be only 1
 26 discharge and dismissal under this section as to an individual.
 27 (2) All court proceedings under this section ~~shall~~ **must** be
 28 open to the public. Except as provided in subsection (3), if the
 29 record of proceedings as to the defendant is deferred under this

1 section, the record of proceedings during the period of deferral
2 ~~shall~~**must** be closed to public inspection.

3 (3) Unless the court enters a judgment of guilt under this
4 section, the department of state police shall retain a nonpublic
5 record of the arrest, court proceedings, and disposition of the
6 criminal charge under this section. However, the nonpublic record
7 ~~shall~~**must** be open to the following individuals and entities for
8 the purposes noted:

9 (a) The courts of this state, law enforcement personnel, the
10 department of corrections, and prosecuting attorneys for use only
11 in the performance of their duties or to determine whether an
12 employee of the court, law enforcement agency, department of
13 corrections, or prosecutor's office has violated his or her
14 conditions of employment or whether an applicant meets criteria for
15 employment with the court, law enforcement agency, department of
16 corrections, or prosecutor's office.

17 (b) The courts of this state, law enforcement personnel, and
18 prosecuting attorneys for the purpose of showing either of the
19 following:

20 (i) That a defendant has already once availed himself or
21 herself of this section.

22 (ii) Determining whether the defendant in a criminal action is
23 eligible for discharge and dismissal of proceedings by a drug
24 treatment court under section 1076 of the revised judicature act of
25 1961, 1961 PA 236, MCL 600.1076.

26 (c) The department of human services for enforcing child
27 protection laws and vulnerable adult protection laws or
28 ascertaining the preemployment criminal history of any individual
29 who will be engaged in the enforcement of child protection laws or

1 vulnerable adult protection laws.

2 (d) The Michigan commission on law enforcement standards
3 created in section 3 of the Michigan commission on law enforcement
4 standards act, 1965 PA 203, MCL 28.603, as follows:

5 (i) The court placed the individual on probation after March
6 25, 2002.

7 (ii) If, at the time of the request, the individual is seeking
8 licensure as a law enforcement officer under the Michigan
9 commission on law enforcement standards act, 1965 PA 203, MCL
10 28.601 to 28.615, the Michigan commission on law enforcement
11 standards may use the record to determine whether the individual
12 meets the requirements for licensure as provided in that act.

13 (iii) If the individual is licensed or certified as a law
14 enforcement officer under the Michigan commission on law
15 enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615, the
16 Michigan commission on law enforcement standards may use the record
17 to determine whether the license or certificate may be revoked as
18 provided in that act.

19 (iv) If the individual is seeking admission to a law
20 enforcement training academy, the Michigan commission on law
21 enforcement standards may use the record to determine whether the
22 individual meets the requirements for admission to the academy as
23 provided in the Michigan commission on law enforcement standards
24 act, 1965 PA 203, MCL 28.601 to 28.615.

25 (v) If the individual is seeking a waiver from the law
26 enforcement officer minimum standards regarding training
27 requirements, the Michigan commission on law enforcement standards
28 may use the record to determine whether the individual meets the
29 requirements for the waiver as provided in the Michigan commission

1 on law enforcement standards act, 1965 PA 203, MCL 28.601 to
2 28.615.

3 (4) For purposes of this section, a person subjected to a
4 civil fine for a first violation of section 7341(4) ~~shall~~**is** not ~~be~~
5 considered to have previously been convicted of an offense under
6 this article.

7 (5) Except as provided in subsection (6), if an individual is
8 convicted of a violation of this article, other than a violation of
9 section 7401(2) (a) (i) to (iv) or section 7403(2) (a) (i) to (iv), the
10 court as part of the sentence, during the period of confinement or
11 the period of probation, or both, may require the individual to
12 attend a course of instruction or rehabilitation program approved
13 by the department on the medical, psychological, and social effects
14 of the misuse of drugs. The court may order the individual to pay a
15 fee, as approved by the director, for the instruction or program.
16 Failure to complete the instruction or program is a violation of
17 the terms of probation.

18 (6) If an individual is convicted of a second violation of
19 section 7341(4), before imposing sentence under subsection (1), the
20 court shall order the person to undergo screening and assessment by
21 a person or agency designated by the office of substance abuse
22 services, to determine whether the person is likely to benefit from
23 rehabilitative services, including alcohol or drug education and
24 alcohol or drug treatment programs. As part of the sentence imposed
25 under subsection (1), the court may order the person to participate
26 in and successfully complete 1 or more appropriate rehabilitative
27 programs. The person shall pay for the costs of the screening,
28 assessment, and rehabilitative services. Failure to complete a
29 program is a violation of the terms of the probation.

1 Sec. 7413. (1) Except as otherwise provided in subsection (2)
 2 an individual convicted of a second or subsequent offense under
 3 this article may be imprisoned for a term not more than twice the
 4 term otherwise authorized or fined an amount not more than twice
 5 that otherwise authorized, or both.

6 (2) An individual convicted of a second or subsequent offense
 7 under section 7410(2) or (3) must be punished, subject to
 8 subsection (3), by a term of imprisonment of not less than 5 years
 9 nor more than twice that authorized under section 7410(2) or (3)
 10 and, in addition, may be punished by a fine of not more than 3
 11 times that authorized by section 7410(2) or (3); and is not
 12 eligible for probation or suspension of sentence during the term of
 13 imprisonment.

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

17 (4) For purposes of subsection (1), an offense is considered a
 18 second or subsequent offense, if, before conviction of the offense,
 19 the offender has at any time been convicted under this article or
 20 under any statute of the United States or of any state relating to
 21 a narcotic drug, ~~marihuana~~, depressant, stimulant, or
 22 hallucinogenic drug.

23 Sec. 7416. (1) A person 17 years of age or over who recruits,
 24 induces, solicits, or coerces a minor less than 17 years of age to
 25 commit or attempt to commit any act that would be a felony under
 26 this part if committed by an adult is guilty of a felony and may be
 27 punished by a fine of not more than the fine authorized by this
 28 part for an adult who commits such an act, and shall be punished,
 29 subject to subsection (3), as follows:

1 (a) Except as provided in subdivision (b), by imprisonment for
 2 not less than 1/2 of the maximum term of imprisonment authorized by
 3 this part for an adult who commits such an act and not more than
 4 the maximum term of imprisonment authorized by this part for an
 5 adult who commits such an act.

6 (b) If the act to be committed or attempted by the minor is a
 7 violation of section 7401(2) (a) (i), by imprisonment for life.

8 (2) A person subject to a sentence under subsection (1) ~~shall~~
 9 **is** not ~~be~~-subject to a delayed sentence or a suspended sentence and
 10 ~~shall is~~ not ~~be~~-eligible for probation.

11 (3) The court may depart from a minimum term of imprisonment
 12 authorized under subsection (1) (a) or (b) if the court finds on the
 13 record that there are substantial and compelling reasons to do so.

14 ~~(4) Subsection (1) (a) does not apply to an act that is a~~
 15 ~~violation of section 7401(2) (d) and that involves the manufacture,~~
 16 ~~delivery, or possession with intent to deliver of marihuana. This~~
 17 ~~section applies whether or not the person 17 years of age or older~~
 18 ~~knew or had reason to know the age of the minor less than 17 years~~
 19 ~~of age.~~

20 Sec. 8109. ~~(1) A person shall not manufacture, distribute,~~
 21 ~~prescribe, or dispense pharmaceutical grade cannabis without first~~
 22 ~~obtaining a license to manufacture, distribute, prescribe, or~~
 23 ~~dispense a controlled substance under article 7.~~

24 ~~(2) A license issued under article 7 to manufacture,~~
 25 ~~distribute, prescribe, or dispense pharmaceutical grade cannabis~~
 26 ~~and the conduct of a person licensed to manufacture, distribute,~~
 27 ~~prescribe, or dispense pharmaceutical grade cannabis under that~~
 28 ~~license is subject to the additional requirements of this article.~~

29 ~~(3) Article 7 and this~~ **This** article ~~do~~ **does** not apply to

1 conduct permitted under the Michigan medical marihuana act.

2 Sec. 8111. (1) Beginning on the effective date of this
 3 article, the director may charge a reasonable fee for licensing,
 4 registration, inspection, testing, investigation, or other activity
 5 or service provided by the department under this article. ~~The fee~~
 6 ~~authorized under this subsection is in addition to any fee~~
 7 ~~authorized under article 7.~~ All fees permitted under this section
 8 shall ~~shall~~ **must** be delivered to the state treasurer on a monthly basis
 9 for deposit in the pharmaceutical-grade cannabis fund.

10 (2) Before collecting a fee under this article, the department
 11 shall develop and publish a comprehensive schedule of fees. The
 12 schedule shall ~~shall~~ **must** include a description of each activity or
 13 service and the maximum fee charged for that activity or service.
 14 The department shall include a statement of the rationale used in
 15 determining the fees contained in the schedule. The department
 16 shall revise the fee schedule from time to time so that the amount
 17 of fees collected under this article does not exceed the amount
 18 necessary to fund the duties of the department under this article.

19 Sec. 8154. (1) Each prescription for pharmaceutical-grade
 20 cannabis shall ~~shall~~ **must** contain all of the following information:

21 (a) The date the prescription is written.

22 (b) The date the prescription is filled.

23 (c) The dosage and instructions for use, which shall ~~shall~~ **must**
 24 include the percentage of total THC and the percentage of total
 25 CBD. A prescription for pharmaceutical-grade cannabis shall ~~shall~~ **must**
 26 not allow the individual to whom the prescription is issued to
 27 obtain more than 2.5 ounces of pharmaceutical-grade cannabis.
 28 Pharmaceutical-grade cannabis must be kept only in the original
 29 packaging or container provided by the manufacturer or by the

1 dispensing pharmacy.

2 (d) The name, address, and federal drug enforcement
3 administration number of the dispensing pharmacy and the initials
4 of the pharmacist who fills the prescription.

5 (e) The name, address, and date of birth of the eligible
6 patient for whom the pharmaceutical-grade cannabis is prescribed.

7 (f) The product brand name, if a brand name is specified by
8 the prescriber.

9 ~~(2) The department shall require the use of the electronic~~
10 ~~system established under section 7333a for monitoring~~
11 ~~pharmaceutical-grade cannabis dispensed under this section as a~~
12 ~~schedule 2 controlled substance.~~

13 **(2)** ~~(3)~~—The director shall permit access to information
14 submitted to the department under this article only to the
15 following individuals and as provided in this article:

16 (a) Employees and agents of the department authorized by the
17 director of the department.

18 ~~(b) Employees of state, county, and other local law~~
19 ~~enforcement entities authorized by the administrator as defined in~~
20 ~~article 7 for the purpose of cooperating and assisting a~~
21 ~~governmental agency that is responsible for the enforcement of laws~~
22 ~~relating to controlled substances or a prescribing physician or~~
23 ~~pharmacy concerning an individual suspected of attempting to obtain~~
24 ~~a controlled substance by fraud, deceit, or misrepresentation.~~

25 **(b)** ~~(e)~~—A person with whom the department has contracted under
26 subsection ~~(8)~~. **(7)** .

27 **(3)** ~~(4)~~—Information submitted to the department under this
28 section is confidential, but may be released to persons authorized
29 by the director to conduct research studies or to other persons

1 authorized by the director. However, subject to subsection ~~(5)~~ **(4)**
2 and section 8153, information ~~shall~~ **must** be released for
3 statistical purposes only.

4 **(4)** ~~(5)~~—The system for retrieval of information submitted to
5 the department under this section ~~shall~~ **must** be designed in all
6 respects so as to preclude improper access to information.

7 **(5)** ~~(6)~~—Except as otherwise provided in this part, information
8 submitted to the department under this section ~~shall~~ **must** be used
9 only for bona fide drug-related criminal investigatory or
10 evidentiary purposes or for investigatory or evidentiary purposes
11 in connection with the functions of 1 or more of the licensing
12 boards created in article 15.

13 **(6)** ~~(7)~~—The identity of an individual eligible patient that is
14 submitted to the department under this section ~~shall~~ **must** be
15 removed from the system for retrieval of the information described
16 in this section and ~~shall~~ **must** be destroyed and rendered
17 irretrievable not later than the end of the calendar year following
18 the year in which the information was submitted to the department.
19 However, an individual eligible patient identity that is necessary
20 for use in a specific ongoing investigation conducted in accordance
21 with this act may be retained in the system until the end of the
22 year in which the necessity for retention of the identity ends.

23 **(7)** ~~(8)~~—The department may enter into contractual agreements
24 for the administration of this section.

25 Sec. 8501. (1) The department shall enforce this article ~~and~~
26 ~~the applicable provisions of article 7~~ and shall conduct at least 1
27 inspection of each pharmaceutical-grade cannabis licensed facility
28 during the term of its license to ensure compliance with the
29 requirements of this article. ~~and article 7.~~

1 (2) Upon a finding that an emergency exists requiring
2 immediate action to protect the public health, safety, and welfare,
3 the department may issue an order to suspend the license of a
4 pharmaceutical-grade cannabis licensed facility without notice or
5 hearing. The order ~~shall~~**must** recite the existence of the emergency
6 and the facts supporting a determination of the need to protect
7 public health, safety, and welfare. Notwithstanding this act or the
8 administrative procedures act of 1969, the order ~~shall be~~**is**
9 effective immediately. A person to whom the order is directed shall
10 comply immediately but, on application to the department, ~~shall~~
11 **must** be afforded a hearing within 15 days. On the basis of the
12 hearing, the order of summary suspension ~~shall~~**must** be continued,
13 modified, or dissolved not later than 30 days after the hearing.

14 Sec. 8503. (1) In addition to any other penalties prescribed
15 or remedies provided in this article ~~, article 7,~~ and article 15,
16 the department may, on its own motion or on receipt of a complaint,
17 and after an investigation and a hearing before an administrative
18 law judge at which the pharmaceutical-grade cannabis licensed
19 facility licensee is afforded an opportunity to be heard, suspend
20 or revoke a facility license issued under this article. The
21 department may suspend or revoke a license for any violation by the
22 licensee, a board member, an agent, or an employee of the licensed
23 facility or of any of the terms, conditions, or provisions of the
24 license issued by the department. The department may administer
25 oaths and issue subpoenas to require the presence of persons and
26 the production of papers, books, and records necessary to the
27 determination of any hearing that the department is authorized to
28 conduct.

29 (2) The department shall provide notice of suspension or

1 revocation, as well as any required notice of a hearing, by mailing
2 the same in writing to the licensed facility at the address
3 contained in the license. If a license is suspended or revoked, ~~no~~
4 **the department shall not return to the licensee any** part of the
5 fees paid for the license under this article. ~~or under article 7~~
6 ~~shall be returned to the licensee.~~ The department may summarily
7 suspend a license without notice pending any prosecution,
8 investigation, or public hearing.

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