

The Committee on Judiciary offered the following substitute:

February 12, 1997

**SUBSTITUTE FOR
SENATE BILL NO. 3**

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 7410 (MCL 333.7410), as amended by 1994 PA
174.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7410. (1) Except as otherwise provided in
2 subsections (2) and (3), an individual ~~18~~ 17 years of age or
3 over who violates section 7401(2)(a)(iv) by delivering or dis-
4 tributing a controlled substance listed in schedule 1 or 2 that
5 is either a narcotic drug or described in section 7214(a)(iv) to
6 an individual under 18 years of age who is at least ~~3~~ 2 years
7 the deliverer's or distributor's junior may be punished by the
8 fine authorized by section 7401(2)(a)(iv) or by a term of
9 imprisonment of not less than 1 year nor more than twice that

1 authorized by section 7401(2)(a)(iv), or both. An individual
2 ~~18~~ 17 years of age or over who violates section 7401 by deliv-
3 ering or distributing any other controlled substance listed in
4 schedules 1 to 5 to an individual under 18 years of age who is at
5 least ~~3~~ 2 years the distributor's junior may be punished by the
6 fine authorized by section 7401(2)(b), (c), or (d), or by a term
7 of imprisonment not more than twice that authorized by section
8 7401(2)(b), (c), or (d), or both.

9 (2) An individual ~~18~~ 17 years of age or over who violates
10 section 7401(2)(a)(iv) by delivering a controlled substance
11 described in schedule 1 or 2 that is either a narcotic drug or
12 described in section 7214(a)(iv) to a minor ~~who is a student~~ on
13 or within 1,000 feet of school property OR TO A MINOR WHO IS IN A
14 PUBLIC PARK OR PRIVATE PARK OR WITHIN 1,000 FEET OF A PUBLIC PARK OR
15 PRIVATE PARK shall be pun-
16 ished, subject to subsection (5), by a term of imprisonment of
17 not less than 2 years or more than 3 times that authorized by
18 section 7401(2)(a)(iv) and, in addition, may be punished by a
19 fine of not more than 3 times that authorized by section
20 7401(2)(a)(iv).

21 (3) An individual ~~18~~ 17 years of age or over who violates
22 section 7401(2)(a)(iv) by possessing with intent to deliver to a
23 minor ~~who is a student~~ on or within 1,000 feet of school property
24 OR TO A MINOR WHO IS IN A PUBLIC PARK OR PRIVATE PARK OR WITHIN
25 1,000 FEET OF A
26 PUBLIC PARK OR PRIVATE PARK a controlled substance described in
27 schedule 1 or 2
that is either a narcotic drug or described in section
7214(a)(iv) shall be punished, subject to subsection (5), by a
term of imprisonment of not less than 2 years or more than twice

1 that authorized by section 7401(2)(a)(iv) and, in addition, may
2 be punished by a fine of not more than 3 times that authorized by
3 section 7401(2)(a)(iv).

4 (4) An individual ~~18~~ 17 years of age or over who violates
5 section 7403(2)(a)(v), (b), (c), or (d) by possessing a con-
6 trolled substance on school property OR IN A PUBLIC PARK shall be
7 punished by a term of imprisonment or a fine, or both, of not
8 more than twice that authorized by section 7403(2)(a)(v), (b),
9 (c), or (d).

10 (5) The court may depart from the minimum term of imprison-
11 ment authorized under subsection (2) or (3) if the court finds on
12 the record that there are substantial and compelling reasons to
13 do so.

14 (6) As used in this section: ~~—, "school—~~

15 (A) "PUBLIC PARK" MEANS REAL PROPERTY OWNED OR MAINTAINED BY
16 THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE THAT IS DES-
17 IGNATED BY THIS STATE OR BY THAT POLITICAL SUBDIVISION AS A
18 PUBLIC PARK.

(B) "PRIVATE PARK" MEANS REAL PROPERTY OWNED OR MAINTAINED BY A
PRIVATE INDIVIDUAL OR ENTITY AND WHICH IS OPEN TO THE GENERAL PUBLIC
OR LOCAL RESIDENTS FOR THE PURPOSES OF RECREATION OR AMUSEMENT.

19 (C) "SCHOOL property" means a building, playing field, or
20 property used for school purposes to impart instruction to chil-
21 dren in grades kindergarten through 12, when provided by a
22 public, private, denominational, or parochial school, except
23 those buildings used primarily for adult education or college
24 extension courses.

25 (7) A person who distributes marihuana without remuneration
26 and not to further commercial distribution and who does not
27 violate subsection (1) is guilty of a misdemeanor, punishable by

1 imprisonment for not more than 1 year, or a fine of not more than
2 \$1,000.00, or both, unless the distribution is in accordance with
3 the federal law or the law of this state.

Enacting section 1. This amendatory act takes effect June 1, 1997.