

# SENATE BILL No. 344

March 20, 2001, Introduced by Senator BYRUM and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled  
 "Public health code,"  
 by amending sections 7212 and 7401 (MCL 333.7212 and 333.7401),  
 section 7212 as amended by 1998 PA 248 and section 7401 as  
 amended by 2000 PA 314.

## 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 spe-  
 7 cific chemical designation:

8       Acetylmethadol	Difenoxin	Noracymethadol
9       Allylprodine	Dimenoxadol	Norlevorphanol

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DAM

1	Alpha-acetylmethadol	Dimepheptanol	Normethadone
2	Alphameprodine	Dimethylthiambutene	Norpipanone
3	Alphamethadol	Dioxaphetyl butyrate	Phenadoxone
4	Benzethidine	Dipipanone	Phenampromide
5	Betacetylmethadol	Ethylmethylthiambutene	Phenomorphan
6	Betameprodine	Etonitazene	Phenoperidine
7	Betamethadol	Etoxeridine	Piritramide
8	Betaprodine	Furethidine	Proheptazine
9	Clonitazene	Hydroxypethidine	Properidine
10	Dextromoramide	Ketobemidone	Propiram
11	Diampromide	Levomoramide	Racemoramide
12	Diethylthiambutene	Levophenacylmorphane	Trimeperidine
13		Morpheridine	

14  
 15 (b) Any of the following opium derivatives, their salts,  
 16 isomers, and salts of isomers, unless specifically excepted, when  
 17 the existence of these salts, isomers, and salts of isomers is  
 18 possible within the specific chemical designation:

19

20	Acetorphine	Drotebanol	Morphine-N-Oxide
21	Acetyldihydrocodeine	Etorphine	Myrophine
22	Benzylmorphine	Heroin	Nicocodeine
23	Codeine methylbromide	Hydromorphanol	Nicomorphine
24	Codeine-N-Oxide	Methyl-desorphine	Normorphine
25	Cyprenorphine	Methyldihydromorphine	Pholcodine
26	Desomorphine	Morphine methylbromide	Thebacon
27	Dihydromorphine	Morphine methylsulfonate	

28

29 (c) Any material, compound, mixture, or preparation which  
 30 contains any quantity of the following hallucinogenic substances,  
 31 their salts, isomers, and salts of isomers, unless specifically  
 32 excepted, when the existence of these salts, isomers, and salts  
 33 of isomers is possible within the specific chemical designation:

34

35 2-Methylamino-1-phenylpropan-1-one  
 36 Some trade and other names:  
 37 Methcathinone  
 38 Cat  
 39 Ephedrone  
 40 3, 4-methylenedioxy amphetamine

- 1 5-methoxy-3, 4-methylenedioxy
- 2 amphetamine
- 3 3, 4, 5-trimethoxy amphetamine
- 4 Bufotenine
- 5 Some trade and other names:
- 6 3-(B-dimethylaminoethyl)-5 hydroxyindole
- 7 3-(2-dimethylaminoethyl)-5 indolol
- 8 N,N-dimethylserotonin; 5-hydroxy-N-dimethyltryptamine
- 9 Mappine
- 10 2, 5-Dimethoxyamphetamine
- 11 Some trade or other names:
- 12 2, 5-Dimethoxy-a-methylphenethylamine; 2,5-DMA
- 13 4-Bromo-2, 5-Dimethoxyamphetamine
- 14 Some trade or other names:
- 15 4-bromo-2, 5 dimethoxy-a-methylphenethylamine; 4-bromo
- 16 2,5-DMA
- 17 Diethyltryptamine
- 18 Some trade and other names:
- 19 N,N-Diethyltryptamine; DET
- 20 Dimethyltryptamine
- 21 Some trade or other names:
- 22 DMT
- 23 4-methyl-2, 5-dimethoxyamphetamine
- 24 Some trade and other names:
- 25 4-methyl-2, 5-dimethoxy-a-methyl-phenethylamine
- 26 DOM, STP

- 1 4-methoxyamphetamine
- 2 Some trade or other names:
- 3 4-methoxy- $\alpha$ -methylphenethylamine; paramethoxy amphetamine;
- 4 PMA
- 5 Ibogaine
- 6 Some trade and other names:
- 7 7-Ethyl-6,6a,7,8,9,10,12,13
- 8 Octahydro-2-methoxy-6,9-methano-5H-
- 9 pyrido (1, 2:1, 2 azepino 4, 5-b) indole
- 10 tabernanthe iboga
- 11 Lysergic acid diethylamide
- 12 Marihuana, except as otherwise provided in subsection (2)
- 13 Mecloqualone
- 14 Mescaline
- 15 Peyote
- 16 N-ethyl-3 piperidyl benzilate
- 17 N-methyl-3 piperidyl benzilate
- 18 Psilocybin
- 19 Psilocyn
- 20 Thiophene analog of phencyclidine
- 21 Some trade or other names:
- 22 1-(1-(2-thienyl)cyclohexyl) piperidine)
- 23 2-thienyl analog of phencyclidine; TCP
- 24
- 25 (d) Except as provided in subsection (2), synthetic equiva-
- 26 lents of the substances contained in the plant, or in the
- 27 resinous extractives of cannabis and synthetic substances,

1 derivatives, and their isomers with similar chemical structure or  
2 pharmacological activity, or both, such as the following, are  
3 included in schedule 1:

4 (i)  $\Delta$ <UP1> cis or trans tetrahydrocannabinol, and their optical  
5 isomers.

6 (ii)  $\Delta$ <UP6> cis or trans tetrahydrocannabinol, and their opti-  
7 cal isomers.

8 (iii)  $\Delta$ <UP3>, <UP4>, cis or trans tetrahydrocannabinol, and their  
9 optical isomers.

10 (e) Compounds of structures of substances referred to in  
11 subdivision (d), regardless of numerical designation of atomic  
12 positions, are included.

13 (f) Gamma-hydroxybutyrate and any isomer, salt, or salt of  
14 isomer of gamma-hydroxybutyrate.

15 Some trade and other names:

16 Sodium oxybate

17 4-hydroxybutanoic acid monosodium salt

18 (G) CIGARETTES WITH A NICOTINE CONTENT OF MAINSTREAM SMOKE  
19 OF 5 OR MORE MILLIGRAMS OF NICOTINE PER GRAM OF BURNT TOBACCO.  
20 AS USED IN THIS SUBDIVISION, "CIGARETTES" MEANS ROLLS FOR SMOKING  
21 MADE WHOLLY OR IN PART OF TOBACCO, IRRESPECTIVE OF SIZE OR SHAPE  
22 AND IRRESPECTIVE OF THE TOBACCO BEING FLAVORED, ADULTERATED, OR  
23 MIXED WITH ANY OTHER INGREDIENT, THAT HAVE WRAPPERS OR COVERS  
24 MADE OF PAPER OR ANY OTHER MATERIAL. CIGARETTES INCLUDE, BUT ARE  
25 NOT LIMITED TO, BIDIS CIGARETTES. CIGARETTES DO NOT INCLUDE  
26 CIGARS.

1       (2) Marihuana and the substances described in subsection (1)  
2 (d) and (e) in schedule 1 shall be regulated as provided in  
3 schedule 2, if they are dispensed in the manner provided in sec-  
4 tions 7335 and 7336.

5       (3) For purposes of subsection (1), "isomer" includes the  
6 optical, position, and geometric isomers.

7       Sec. 7401. (1) Except as authorized by this article, a  
8 person shall not manufacture, create, deliver, or possess with  
9 intent to manufacture, create, or deliver a controlled substance,  
10 a prescription form, an official prescription form, or a counter-  
11 feit prescription form. A practitioner licensed by the adminis-  
12 trator under this article shall not dispense, prescribe, or  
13 administer a controlled substance for other than legitimate and  
14 professionally recognized therapeutic or scientific purposes or  
15 outside the scope of practice of the practitioner, licensee, or  
16 applicant.

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

18       (a) A controlled substance classified in schedule 1 or 2  
19 that is a narcotic drug or a drug described in section  
20 7214(a)(iv) and:

21       (i) Which is in an amount of 650 grams or more of any mix-  
22 ture containing that substance is guilty of a felony punishable  
23 by imprisonment for life or any term of years but not less than  
24 20 years.

25       (ii) Which is in an amount of 225 grams or more, but less  
26 than 650 grams, of any mixture containing that substance is

1 guilty of a felony and shall be imprisoned for not less than 20  
2 years nor more than 30 years.

3 (iii) Which is in an amount of 50 grams or more, but less  
4 than 225 grams, of any mixture containing that substance is  
5 guilty of a felony and shall be imprisoned for not less than 10  
6 years nor more than 20 years.

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

12 (b) Either of the following:

13 (i) A substance described in section 7214(c)( ii) is guilty  
14 of a felony punishable by imprisonment for not more than 20 years  
15 or a fine of not more than \$25,000.00, or both.

16 (ii) Any other controlled substance classified in schedule  
17 1, 2, or 3, except marihuana OR CIGARETTES, is guilty of a felony  
18 punishable by imprisonment for not more than 7 years or a fine of  
19 not more than \$10,000.00, or both.

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

23 (d) Marihuana or a mixture containing marihuana is guilty of  
24 a felony punishable as follows:

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

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

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

8       (E) CIGARETTES WITH A NICOTINE CONTENT OF MAINSTREAM SMOKE  
9 OF 5 OR MORE MILLIGRAMS OF NICOTINE PER GRAM OF BURNT TOBACCO IS  
10 GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE  
11 THAN 93 DAYS OR A FINE OF NOT MORE THAN \$500.00, OR BOTH.

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

15       (G) ~~-(f)-~~ An official prescription form or a counterfeit  
16 official prescription form is guilty of a felony punishable by  
17 imprisonment for not more than 20 years or a fine of not more  
18 than \$25,000.00, or both.

19       (H) ~~-(g)-~~ A prescription form or a counterfeit prescription  
20 form other than an official prescription form or a counterfeit  
21 official prescription form is guilty of a felony punishable by  
22 imprisonment for not more than 7 years or a fine of not more than  
23 \$5,000.00, or both.

24       (3) A term of imprisonment imposed under subsection (2)(a)  
25 or section 7403(2)(a)(i), (ii), (iii), or (iv) shall be imposed  
26 to run consecutively with any term of imprisonment imposed for  
27 the commission of another felony. An individual subject to a



1 mandatory term of imprisonment under subsection (2)(a) or section  
2 7403(2)(a)(i), (ii), (iii), or (iv) is not eligible for proba-  
3 tion, suspension of that sentence, or parole during that manda-  
4 tory term, except to the extent that those provisions permit pro-  
5 bation for life, and shall not receive a reduction in that manda-  
6 tory term of imprisonment by disciplinary credits or any other  
7 type of sentence credit reduction.

8 (4) The court may depart from the minimum term of imprison-  
9 ment authorized under subsection (2)(a)(ii), (iii), or (iv) if  
10 the court finds on the record that there are substantial and com-  
11 pelling reasons to do so. In addition, if any of the following  
12 apply, the court may depart from the minimum term of imprisonment  
13 authorized under subsection (2)(a)(ii), (iii), or (iv) if the  
14 individual has not previously been convicted of a felony or an  
15 assaultive crime and has not been convicted of another felony or  
16 assaultive crime arising from the same transaction as the viola-  
17 tion of this section:

18 (a) The person is within the jurisdiction of the circuit  
19 court under section 606 of the revised judicature act of 1961,  
20 1961 PA 236, MCL 600.606, or section 4 of chapter XIIA of the  
21 probate code of 1939, 1939 PA 288, MCL 712A.4.

22 (b) The person is being sentenced under section 18(1)(n) of  
23 chapter XIIA of the probate code of 1939, 1939 PA 288,  
24 MCL 712A.18.

25 (5) As used in this section:

1 (a) "Assaultive crime" means a violation of sections 81 to  
 2 90 of the Michigan penal code, 1931 PA 328, MCL 750.81 to  
 3 750.90.

4 (B) "CIGARETTES" MEANS THAT TERM AS DEFINED IN SECTION  
 5 7212(1)(G).

6 (C) ~~(b)~~ "Plant" means a marihuana plant that has produced  
 7 cotyledons or a cutting of a marihuana plant that has produced  
 8 cotyledons.