

# HOUSE BILL No. 5113

August 31, 2005, Introduced by Rep. Shaffer and referred to the Committee on Judiciary.

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending section 7401 (MCL 333.7401), as amended by 2002 PA 710.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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

1 practitioner, licensee, or applicant.

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

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

5 (i) Which is in an amount of 1,000 grams or more of any mixture  
6 containing that substance is guilty of a felony punishable by  
7 imprisonment for life or any term of years or a fine of not more  
8 than \$1,000,000.00, or both.

9 (ii) Which is in an amount of 450 grams or more, but less than  
10 1,000 grams, of any mixture containing that substance is guilty of  
11 a felony and punishable by imprisonment for not more than 30 years  
12 or a fine of not more than \$500,000.00, or both.

13 (iii) Which is in an amount of 50 grams or more, but less than  
14 450 grams, of any mixture containing that substance is guilty of a  
15 felony punishable by imprisonment for not more than 20 years or a  
16 fine of not more than \$250,000.00, or both.

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

21 (b) Either of the following:

22 (i) A substance described in section 7212(1)(g) or 7214(c)(ii)  
23 is guilty of a felony punishable by imprisonment for not more than  
24 20 years or a fine of not more than \$25,000.00, or both.

25 (ii) Any other controlled substance classified in schedule 1,  
26 2, or 3, except marihuana is guilty of a felony punishable by  
27 imprisonment for not more than 7 years or a fine of not more than

1 \$10,000.00, or both.

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

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

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

10 (ii) If the amount is 5 kilograms or more but less than 45  
11 kilograms, or 20 plants or more but fewer than 200 plants, by  
12 imprisonment for not more than 7 years or a fine of not more than  
13 \$500,000.00, or both.

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

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

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

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

26 (4) If an individual was sentenced to lifetime probation under  
27 subsection (2)(a)(iv) before ~~the effective date of the amendatory~~

1 ~~act that added this subsection~~ **APRIL 1, 2003** and the individual  
2 has served 5 or more years of that probationary period, the  
3 probation officer for that individual may recommend to the court  
4 that the court discharge the individual from probation. If an  
5 individual's probation officer does not recommend discharge as  
6 provided in this subsection, with notice to the prosecutor, the  
7 individual may petition the court seeking resentencing under the  
8 court rules. The court may discharge an individual from probation  
9 as provided in this subsection. An individual may file more than 1  
10 motion seeking resentencing under this subsection.

11 **(5) IF A PERSON IS FOUND GUILTY OF VIOLATING OR ATTEMPTING TO**  
12 **VIOLATE SUBSECTION (2)(B)(i) INVOLVING A SUBSTANCE DESCRIBED IN**  
13 **SECTION 7214(C)(ii), THE COURT IN WHICH THE PERSON IS SENTENCED**  
14 **SHALL NOTIFY THE SECRETARY OF STATE OF THE CONVICTION ON A FORM**  
15 **APPROVED BY THE SUPREME COURT ADMINISTRATOR. UPON RECEIPT, THE**  
16 **SECRETARY OF STATE SHALL IMMEDIATELY ENTER THIS INFORMATION IN THE**  
17 **RECORDS OF THE DEPARTMENT AND REVOKE THE PERSON'S OPERATOR'S OR**  
18 **CHAUFFEUR'S LICENSE AS PROVIDED IN SECTION 303 OF THE MICHIGAN**  
19 **VEHICLE CODE, 1949 PA 300, MCL 257.303.**

20 **(6) —(5)—** As used in this section, "plant" means a marihuana  
21 plant that has produced cotyledons or a cutting of a marihuana  
22 plant that has produced cotyledons.

23 Enacting section 1. This amendatory act does not take effect  
24 unless Senate Bill No.\_\_\_\_ or House Bill No. 5112(request no.  
25 03654'05) of the 93rd Legislature is enacted into law.