

HOUSE BILL No. 5207

January 8, 2014, Introduced by Reps. Singh, Robinson and Irwin and referred to the Committee on Criminal Justice.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 7403 and 7404 (MCL 333.7403 and 333.7404), as
amended by 2012 PA 183.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7403. (1) A person shall not knowingly or intentionally
2 possess a controlled substance, a controlled substance analogue, or
3 a prescription form unless the controlled substance, controlled
4 substance analogue, or prescription form was obtained directly
5 from, or pursuant to, a valid prescription or order of a
6 practitioner while acting in the course of the practitioner's
7 professional practice, or except as otherwise authorized by this
8 article.

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

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

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

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

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

16 (iv) Which is in an amount of 25 grams or more, but less than
17 50 grams of any mixture containing that substance is guilty of a
18 felony punishable by imprisonment for not more than 4 years or a
19 fine of not more than \$25,000.00, or both.

20 (v) Which is in an amount less than 25 grams of any mixture
21 containing that substance is guilty of a felony punishable by
22 imprisonment for not more than 4 years or a fine of not more than
23 \$25,000.00, or both.

24 (b) Either of the following:

25 (i) A substance described in section 7212(1)(h) or 7214(c)(ii)
26 is guilty of a felony punishable by imprisonment for not more than
27 10 years or a fine of not more than \$15,000.00, or both.

1 (ii) A controlled substance classified in schedule 1, 2, 3, or
2 4, except a controlled substance for which a penalty is prescribed
3 in **SUBPARAGRAPH (i) OR IN** subdivision (a), ~~(b)(i)~~, (c), or (d), or a
4 controlled substance analogue is guilty of a felony punishable by
5 imprisonment for not more than 2 years or a fine of not more than
6 \$2,000.00, or both.

7 (c) Lysergic acid diethylamide, peyote, mescaline,
8 dimethyltryptamine, psilocyn, psilocybin, or a controlled substance
9 classified in schedule 5 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 (d) Marihuana is guilty of a misdemeanor punishable by
13 imprisonment for not more than 1 year or a fine of not more than
14 \$2,000.00, or both.

15 (e) A prescription form is guilty of a misdemeanor punishable
16 by imprisonment for not more than 1 year or a fine of not more than
17 \$1,000.00, or both.

18 **(3) SUBSECTION (2) DOES NOT APPLY TO EITHER OF THE FOLLOWING:**

19 **(A) A PERSON WHO IS EXPERIENCING MEDICAL PROBLEMS RELATING TO**
20 **A CONTROLLED SUBSTANCE OVERDOSE OR REACTION AND IS IN NEED OF**
21 **MEDICAL ASSISTANCE AND THE EVIDENCE OF THE VIOLATION IS GAINED AS A**
22 **RESULT OF THE PERSON'S SEEKING OR BEING PRESENTED FOR MEDICAL**
23 **ASSISTANCE.**

24 **(B) A PERSON WHO, IN GOOD FAITH, SEEKS MEDICAL ASSISTANCE FOR**
25 **ANOTHER PERSON WHO IS EXPERIENCING MEDICAL PROBLEMS RELATING TO A**
26 **CONTROLLED SUBSTANCE OVERDOSE OR REACTION AND THE EVIDENCE OF THE**
27 **VIOLATION IS GAINED AS A RESULT OF THE PERSON'S SEEKING MEDICAL**

1 **ASSISTANCE FOR THAT OTHER PERSON.**

2 (4) ~~(3)~~—If an individual was sentenced to lifetime probation
3 under subsection (2)(a)(iv) as it existed before March 1, 2003 and
4 the individual has served 5 or more years of that probationary
5 period, the probation officer for that individual may recommend to
6 the court that the court discharge the individual from probation.
7 If an individual's probation officer does not recommend discharge
8 as provided in this subsection, with notice to the prosecutor, the
9 individual may petition the court seeking resentencing under the
10 court rules. The court may discharge an individual from probation
11 as provided in this subsection. An individual may file more than 1
12 motion seeking resentencing under this subsection.

13 Sec. 7404. (1) A person shall not use a controlled substance
14 or controlled substance analogue unless the substance was obtained
15 directly from, or pursuant to, a valid prescription or order of a
16 practitioner while acting in the course of the practitioner's
17 professional practice, or except as otherwise authorized by this
18 article.

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

20 (a) A controlled substance classified in schedule 1 or 2 as a
21 narcotic drug or a drug described in section 7212(1)(h) or
22 7214(a)(iv) or (c)(ii) is guilty of a misdemeanor punishable by
23 imprisonment for not more than 1 year or a fine of not more than
24 \$2,000.00, or both.

25 (b) A controlled substance classified in schedule 1, 2, 3, or
26 4, except a controlled substance for which a penalty is prescribed
27 in subdivision (a), (c), or (d), or a controlled substance

analogue, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

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

(d) Marihuana, catha edulis, salvia divinorum, or a substance described in section 7212(1)(i) is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$100.00, or both.

(3) SUBSECTION (2) DOES NOT APPLY TO EITHER OF THE FOLLOWING:

(A) A PERSON EXPERIENCING MEDICAL PROBLEMS RELATING TO A CONTROLLED SUBSTANCE OVERDOSE OR REACTION WHO IS IN NEED OF MEDICAL ASSISTANCE IF THE EVIDENCE OF THE VIOLATION IS GAINED AS A RESULT OF THE PERSON'S SEEKING OR BEING PRESENTED FOR MEDICAL ASSISTANCE.

(B) A PERSON IN GOOD FAITH SEEKING MEDICAL ASSISTANCE FOR ANOTHER PERSON EXPERIENCING MEDICAL PROBLEMS RELATING TO A CONTROLLED SUBSTANCE OVERDOSE OR REACTION IF THE EVIDENCE OF THE VIOLATION IS GAINED AS A RESULT OF THE PERSON'S SEEKING MEDICAL ASSISTANCE FOR THAT OTHER PERSON.