

HOUSE BILL No. 4508

April 22, 2015, Introduced by Rep. Irwin and referred to the Committee on Judiciary.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 7521 (MCL 333.7521), as amended by 2001 PA 236.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7521. (1) The following property is subject to
2 forfeiture:

3 (a) A prescription form, controlled substance, an imitation
4 controlled substance, a controlled substance analogue, or other
5 drug that has been manufactured, distributed, dispensed, used,
6 possessed, or acquired in violation of this article.

7 (b) A raw material, product, or equipment of any kind that is
8 used, or intended for use, in manufacturing, compounding,
9 processing, delivering, importing, or exporting a controlled
10 substance, a controlled substance analogue, or other drug in
11 violation of this article; or a raw material, product, or equipment

1 of any kind that is intended for use in manufacturing, compounding,
2 processing, delivering, importing, or exporting an imitation
3 controlled substance in violation of section 7341.

4 (c) Property that is used, or intended for use, as a container
5 for property described in subdivision (a) or (b).

6 (d) Except as provided in subparagraphs (i) to ~~(iv)~~, (v), a
7 conveyance, including an aircraft, vehicle, or vessel used or
8 intended for use, to transport, or in any manner to facilitate the
9 transportation, for the purpose of sale or receipt of property
10 described in subdivision (a) or (b):

11 (i) A conveyance used by a person as a common carrier in the
12 transaction of business as a common carrier is not subject to
13 forfeiture unless it appears that the owner or other person in
14 charge of the conveyance is a consenting party or privy to a
15 violation of this article.

16 (ii) A conveyance is not subject to forfeiture by reason of any
17 act or omission established by the owner of that conveyance to have
18 been committed or omitted without the owner's knowledge or consent.

19 (iii) A conveyance is not subject to forfeiture for a violation
20 of section 7403(2)(c) or (d), section 7404, or section 7341(4).

21 (iv) A forfeiture of a conveyance encumbered by a bona fide
22 security interest is subject to the interest of the secured party
23 who neither had knowledge of nor consented to the act or omission.

24 (v) A CONVEYANCE USED TO PURCHASE MARIHUANA FOR PERSONAL USE
25 IS NOT SUBJECT TO FORFEITURE. FOR PURPOSES OF THIS SUBPARAGRAPH,
26 THE PURCHASE OF 1 OUNCE OR LESS OF MARIHUANA IS PRESUMED TO BE FOR
27 PERSONAL USE. THIS PRESUMPTION MAY BE REBUTTED BY CLEAR AND

1 **CONVINCING EVIDENCE.**

2 (e) Books, records, and research products and materials,
3 including formulas, microfilm, tapes, and data used, or intended
4 for use, in violation of this article.

5 (f) Any thing of value that is furnished or intended to be
6 furnished in exchange for a controlled substance, an imitation
7 controlled substance, or other drug in violation of this article
8 that is traceable to an exchange for a controlled substance, an
9 imitation controlled substance, or other drug in violation of this
10 article or that is used or intended to be used to facilitate any
11 violation of this article including, but not limited to, money,
12 negotiable instruments, or securities. To the extent of the
13 interest of an owner, a thing of value is not subject to forfeiture
14 under this subdivision by reason of any act or omission that is
15 established by the owner of the item to have been committed or
16 omitted without the owner's knowledge or consent. Any money that is
17 found in close proximity to any property that is subject to
18 forfeiture under subdivision (a), (b), (c), (d), or (e) is presumed
19 to be subject to forfeiture under this subdivision. This
20 presumption may be rebutted by clear and convincing evidence.

21 (g) Any other drug paraphernalia not described in subdivision
22 (b) or (c).

23 (2) As used in this section, "imitation controlled substance"
24 means that term as defined in section 7341.