

# HOUSE BILL No. 4623

April 24, 2013, Introduced by Reps. Irwin, Callton, Robinson, Cavanagh, Shirkey, Switalski and Hovey-Wright and referred to the Committee on Judiciary.

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.

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

10          (a) A controlled substance classified in schedule 1 or 2 that

1 is a narcotic drug or a drug described in section 7214(a) (iv), and:

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

6 (ii) Which is in an amount of 450 grams or more, but less than  
7 1,000 grams, of any mixture containing that substance is guilty of  
8 a felony punishable by imprisonment for not more than 30 years or a  
9 fine of not more than \$500,000.00, or both.

10 (iii) Which is in an amount of 50 grams or more, but less than  
11 450 grams, of any mixture containing that substance is guilty of a  
12 felony punishable by imprisonment for not more than 20 years or a  
13 fine of not more than \$250,000.00, or both.

14 (iv) Which is in an amount of 25 grams or more, but less than  
15 50 grams of any mixture containing that substance is guilty of a  
16 felony punishable by imprisonment for not more than 4 years or a  
17 fine of not more than \$25,000.00, or both.

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

22 (b) Either of the following:

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

26 (ii) A controlled substance classified in schedule 1, 2, 3, or  
27 4, except a controlled substance for which a penalty is prescribed

1 in **SUBPARAGRAPH (i) OR** subdivision (a), ~~(b) (i)~~, (c), or (d), or a  
2 controlled substance analogue is guilty of a felony punishable by  
3 imprisonment for not more than 2 years or a fine of not more than  
4 \$2,000.00, or both.

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

10 (d) Marihuana, **AS FOLLOWS:**

11 (i) **EXCEPT AS PROVIDED IN SUBPARAGRAPH (ii), THE PERSON** is  
12 guilty of a misdemeanor punishable by imprisonment for not more  
13 than 1 year or a fine of not more than \$2,000.00, or both.

14 (ii) **IF THE VIOLATION INVOLVES 1 OUNCE OF MARIHUANA OR LESS,**  
15 **THE PERSON IS RESPONSIBLE FOR A STATE CIVIL INFRACTION AND IS**  
16 **SUBJECT TO A FINE AS FOLLOWS:**

17 (A) **IF THE PERSON HAS NO PRIOR CONVICTION OR FINDING OF**  
18 **RESPONSIBILITY FOR VIOLATING THIS SUBDIVISION OR A LOCAL ORDINANCE**  
19 **SUBSTANTIALLY CORRESPONDING TO THIS SUBDIVISION, THE PERSON MAY BE**  
20 **FINED NOT MORE THAN \$25.00.**

21 (B) **IF THE PERSON HAS 1 PRIOR CONVICTION OR FINDING OF**  
22 **RESPONSIBILITY FOR VIOLATING THIS SUBDIVISION OR A LOCAL ORDINANCE**  
23 **SUBSTANTIALLY CORRESPONDING TO THIS SUBDIVISION IN ANY COMBINATION,**  
24 **THE PERSON SHALL BE FINED NOT LESS THAN \$25.00 OR MORE THAN \$50.00.**

25 (C) **IF THE PERSON HAS MORE THAN 1 PRIOR CONVICTION OR FINDING**  
26 **OF RESPONSIBILITY FOR VIOLATING THIS SUBDIVISION OR A LOCAL**  
27 **ORDINANCE SUBSTANTIALLY CORRESPONDING TO THIS SUBDIVISION IN ANY**

1 COMBINATION, THE PERSON SHALL BE FINED NOT LESS THAN \$50.00 OR MORE  
2 THAN \$100.00.

3 (e) A prescription form is guilty of a misdemeanor punishable  
4 by imprisonment for not more than 1 year or a fine of not more than  
5 \$1,000.00, or both.

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

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

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

24 (a) A controlled substance classified in schedule 1 or 2 as a  
25 narcotic drug or a drug described in section 7212(1) (h) or  
26 7214(a) (iv) or (c) (ii) is guilty of a misdemeanor punishable by  
27 imprisonment for not more than 1 year or a fine of not more than

1 \$2,000.00, or both.

2 (b) A controlled substance classified in schedule 1, 2, 3, or  
3 4, except a controlled substance for which a penalty is prescribed  
4 in subdivision (a), (c), or (d), or a controlled substance  
5 analogue, is guilty of a misdemeanor punishable by imprisonment for  
6 not more than 1 year or a fine of not more than \$1,000.00, 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 6 months or a fine of not more than  
11 \$500.00, or both.

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

16 **(E) MARIHUANA IS RESPONSIBLE FOR A STATE CIVIL INFRACTION AND**  
17 **IS SUBJECT TO A FINE AS FOLLOWS:**

18 **(i) IF THE PERSON HAS NO PRIOR CONVICTION OR FINDING OF**  
19 **RESPONSIBILITY FOR VIOLATING THIS SUBDIVISION OR A LOCAL ORDINANCE**  
20 **SUBSTANTIALLY CORRESPONDING TO THIS SUBDIVISION, THE PERSON MAY BE**  
21 **FINED NOT MORE THAN \$25.00.**

22 **(ii) IF THE PERSON HAS 1 PRIOR CONVICTION OR FINDING OF**  
23 **RESPONSIBILITY FOR VIOLATING THIS SUBDIVISION OR A LOCAL ORDINANCE**  
24 **SUBSTANTIALLY CORRESPONDING TO THIS SUBDIVISION IN ANY COMBINATION,**  
25 **THE PERSON SHALL BE FINED NOT LESS THAN \$25.00 OR MORE THAN \$50.00.**

26 **(iii) IF THE PERSON HAS MORE THAN 1 PRIOR CONVICTION OR FINDING**  
27 **OF RESPONSIBILITY FOR VIOLATING THIS SUBDIVISION OR A LOCAL**

1 ORDINANCE SUBSTANTIALLY CORRESPONDING TO THIS SUBDIVISION IN ANY  
2 COMBINATION, THE PERSON SHALL BE FINED NOT LESS THAN \$50.00 OR MORE  
3 THAN \$100.00.