

SENATE BILL No. 648

January 19, 1988, Introduced by Senators DI NELLO and GEAKE and referred to the Committee on Judiciary.

A bill to amend section 7521 of Act No. 368 of the Public Acts of 1978, entitled as amended

"Public health code,"

as amended by Act No. 347 of the Public Acts of 1984, being section 333.7521 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 7521 of Act No. 368 of the Public Acts
2 of 1978, as amended by Act No. 347 of the Public Acts of 1984,
3 being section 333.7521 of the Michigan Compiled Laws, is amended
4 to read as follows:

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

7 (a) A controlled substance or an imitation controlled
8 substance which has been manufactured, distributed, dispensed,
9 used, possessed, or acquired in violation of this article.

1 (b) A raw material, product, or equipment of any kind which
2 is used, or intended for use, in manufacturing, compounding, pro-
3 cessing, delivering, importing, or exporting a controlled sub-
4 stance in violation of this article; or a raw material, product,
5 or equipment of any kind which is intended for use in manufactur-
6 ing, compounding, processing, delivering, importing, or exporting
7 an imitation controlled substance in violation of section 7341.

8 (c) Property which is used, or intended for use, as a con-
9 tainer for property described in subdivision (a) or (b).

10 (d) A conveyance, including an aircraft, vehicle, or vessel
11 used or intended for use, to transport, or in any manner to
12 facilitate the transportation, for the purpose of sale or receipt
13 of property described in subdivision (a) or (b), but:

14 (i) A conveyance used by a person as a common carrier in the
15 transaction of business as a common carrier is not subject to
16 forfeiture unless it appears that the owner or other person in
17 charge of the conveyance is a consenting party or privy to a vio-
18 lation of this article.

19 (ii) A conveyance is not subject to forfeiture by reason of
20 any act or omission established by the owner thereof to have been
21 committed or omitted without the owner's knowledge or consent.

22 (iii) A conveyance is not subject to forfeiture for a viola-
23 tion of section 7403(2)(c) or (d), section 7404, or
24 section 7341(4).

25 (iv) A forfeiture of a conveyance encumbered by a bona fide
26 security interest is subject to the interest of the secured party

1 who neither had knowledge of nor consented to the act or
2 omission.

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

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

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