

HOUSE BILL No. 4787

May 17, 2001, Introduced by Rep. Newell and referred to the Committee on Criminal Justice.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 7401 (MCL 333.7401), as amended by 2000 PA
314.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

5 (i) ~~which~~ THAT is in an amount of 650 grams or more of any
6 mixture containing that substance is guilty of a felony punish-
7 able by imprisonment for life or any term of years but not less
8 than 20 years.

9 (ii) ~~which~~ THAT is in an amount of 225 grams or more, but
10 less than 650 grams, of any mixture containing that substance is
11 guilty of a felony and shall be imprisoned for not less than 20
12 years nor more than 30 years.

13 (iii) ~~which~~ THAT is in an amount of 50 grams or more, but
14 less than 225 grams, of any mixture containing that substance is
15 guilty of a felony and shall be imprisoned for not less than 10
16 years nor more than 20 years.

17 (iv) ~~which~~ THAT is in an amount less than 50 grams, of any
18 mixture containing that substance is guilty of a felony and shall
19 be imprisoned for not less than 1 year nor more than 20 years,
20 and may be fined not more than \$25,000.00, or placed on probation
21 for life.

22 (b) Either of the following:

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

26 (ii) Any other controlled substance classified in schedule
27 1, 2, or 3, except marihuana is guilty of a felony punishable by

1 imprisonment for not more than 7 years or a fine of not more than
2 \$10,000.00, or both.

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

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

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

11 (ii) If the amount is 5 kilograms or more but less than 45
12 kilograms, or 20 plants or more but fewer than 200 plants, by
13 imprisonment for not more than 7 years or a fine of not more than
14 \$500,000.00, or both.

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

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

21 (f) An official prescription form or a counterfeit official
22 prescription form is guilty of a felony punishable by imprison-
23 ment for not more than 20 years or a fine of not more than
24 \$25,000.00, or both.

25 (g) A prescription form or a counterfeit prescription form
26 other than an official prescription form or a counterfeit
27 official prescription form is guilty of a felony punishable by

1 imprisonment for not more than 7 years or a fine of not more than
2 \$5,000.00, or both.

3 (3) A term of imprisonment imposed under subsection (2)(a)
4 or section 7403(2)(a)(i), (ii), (iii), or (iv) shall be imposed
5 to run consecutively with any term of imprisonment imposed for
6 the commission of another felony. An individual subject to
7 IMPRISONMENT FOR a mandatory term of ~~imprisonment~~ YEARS under
8 subsection (2)(a) or section 7403(2)(a)(i), (ii), (iii), or (iv)
9 is not eligible for probation, suspension of that sentence, or
10 parole during that mandatory term OF YEARS, except to the extent
11 that those provisions permit probation for life, and shall not
12 receive a reduction in that mandatory term of imprisonment by
13 disciplinary credits or any other type of sentence credit
14 reduction.

15 (4) The court may depart from the minimum term of imprison-
16 ment authorized under subsection (2)(a)(ii), (iii), or (iv) if
17 the court finds on the record that there are substantial and com-
18 pelling reasons to do so. In addition, if any of the following
19 apply, the court may depart from the minimum term of imprisonment
20 authorized under subsection (2)(a)(ii), (iii), or (iv) if the
21 individual has not previously been convicted of a felony or an
22 assaultive crime and has not been convicted of another felony or
23 assaultive crime arising from the same transaction as the viola-
24 tion of this section:

25 (a) The person is within the jurisdiction of the circuit
26 court under section 606 of the revised judicature act of 1961,

1 1961 PA 236, MCL 600.606, or section 4 of chapter XIIIA of the
2 probate code of 1939, 1939 PA 288, MCL 712A.4.

3 (b) The person is being sentenced under section 18(1)(n) of
4 chapter XIIIA of the probate code of 1939, 1939 PA 288,
5 MCL 712A.18.

6 (5) As used in this section:

7 (a) "Assaultive crime" means a violation of sections 81 to
8 90 of the Michigan penal code, 1931 PA 328, MCL 750.81 to
9 750.90.

10 (b) "Plant" means a marihuana plant that has produced coty-
11 ledons or a cutting of a marihuana plant that has produced
12 cotyledons.