

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FOURTH LEGISLATURE

Legislative Document

No. 742

H. P. 561

House of Representatives, February 11, 1969

Referred to Committee on Judiciary. Sent up for concurrence and 1,000 ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Jalbert of Lewiston.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-NINE

AN ACT Controlling the Sale and Possession of Cannabis (Marijuana) and Peyote.

Be it enacted by the People of the State of Maine, as follows :

Sec. 1. R. S., T. 17, § 858, amended. Section 858 of Title 17 of the Revised Statutes is amended to read as follows :

§ 858. Selling narcotic drugs to children

Whoever sells, gives, administers or dispenses or conspires to sell, give, administer or dispense ~~marijuana~~ or any substance defined as a narcotic drug under laws of this State, unless prescribed by a physician or otherwise used in case of sickness, to any person under the age of 18 shall be punished by imprisonment for not more than 20 years and in addition by a fine of not more than \$1,000.

Sec. 2. R. S., T. 22, § 2206, amended. The first sentence of section 2206 of Title 22 of the Revised Statutes, as amended by section 1 of chapter 390 of the public laws of 1967, is further amended to read as follows :

No person, except a registered apothecary, wholesaler, registered hospital pharmacy or a physician of regular standing in his profession, shall furnish, sell or keep for sale any opium, morphine, laudanum ~~marijuana~~ or preparations containing opium, morphine ~~marijuana~~ or derivative of opium.

Sec. 3. R. S., T. 22, § 2212-B, amended. Section 2212-B of Title 22 of the Revised Statutes, as enacted by section 5 of chapter 390 of the public laws of 1967, is amended to read as follows :

§ 2212-B. Possession of certain drugs

Whoever, except the laboratory of the Department of Health and Welfare, and research centers and laboratories licensed under section 2368-A is found in possession of d-lysergic acid diethylamide (LSD-25), ~~peyote~~ mescaline and its salts, dimethyltryptamine (DMT), psilocin or psilocybin, shall upon conviction thereof be punished by a fine of not more than \$1,000 or by imprisonment for not more than 2 years, or by both.

Sec. 4. R. S., T. 22, § 2361, sub-§ 4, repealed. Subsection 4 of section 2361 of Title 22 of the Revised Statutes is repealed.

Sec. 5. R. S., T. 22, § 2361, sub-§ 15, amended. Subsection 15 of section 2361 of Title 22 of the Revised Statutes is amended to read as follows:

15. Narcotic drugs. "Narcotic drugs" means coca leaves, opium, isonipocaine ~~cannabis~~ and every other substance neither chemically nor physically distinguishable from them and any other drugs to which the federal laws relating to narcotic drugs may now apply; and any drug found by the board after reasonable notice and opportunity for hearing, to have an addiction-forming or addiction-sustaining liability similar to morphine or cocaine from the date of publication of such finding by said board.

Sec. 6. R. S., T. 22, § 2368-A, amended. Section 2368-A of Title 22 of the Revised Statutes, as enacted by section 8 of chapter 390 of the public laws of 1967, is amended to read as follows:

§ 2368-A. Hallucinatory drugs

No person shall manufacture, compound, mix, cultivate, grow or by any other process produce or prepare hallucinatory agents having the potential for abuse because of their hallucinatory effect, such as d-lysergic acid diethylamide (LSD-25), ~~peyote~~ mescaline and its salts, dimethyltryptamine (DMT), psilocin or psilocybin, unless for laboratory work or research. Laboratories and research centers using these drugs shall be licensed and regulated by the Bureau of Health.

Sec. 7. R. S., T. 22, c. 558, additional. Title 22 of the Revised Statutes is amended by adding a new chapter 558, to read as follows:

CHAPTER 558

SALE AND POSSESSION OF CANNABIS (MARIJUANA)

§ 2381. Title

This chapter shall be referred to as the Act Controlling the Sale and Possession of Cannabis (marijuana) and Peyote.

§ 2382. Definitions

1. Cannabis. "Cannabis", sometimes called marijuana or marihuana, includes all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof, the resin extracted from any part of such plant, and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds or resin; but shall not include the mature stocks of such plant, fiber

produced from such stock, oil or cake made from the seeds of such plant, or any other compound, manufacture, salt, derivative, mixture or preparation of such mature stock, resin extracted therefrom, fiber, oil or cake, or the sterilized seed of such plant which is capable of germination.

“Cannabis” shall be taken to include any synthetic substitute for such substance or any salts, compounds, derivatives or preparations thereof.

2. **Peyote.** “Peyote”, true name *Lophophora*, sometimes called **Mescal Buttons** or **Anhalonium**, including any or all parts of the cactus, genus *Lophophora*, whether growing or not, the extract from the plant, and any salt, compound or derivative of the same.

3. **Sale.** “Sale” includes barter, exchange or gift, or offer thereof, and each transaction made by any person, whether it is principal, proprietor, agent, servant or employee.

§ 2383. Possession

1. **Manufacture or possesses.** Whoever manufactures, cultivates, grows, possesses or has under his control, Cannabis or Peyote, except as authorized by this chapter, shall be punished, for the first offense, by a fine of not more than \$1,000 and by imprisonment for not more than 11 months; and, for any subsequent offense, by a fine of not more than \$2,000 and by imprisonment for not more than 2 years.

2. **Present.** Whoever, knowingly, is present where Cannabis or Peyote is kept or deposited, or whoever is in the company of a person, knowing that said person is in possession of Cannabis or Peyote, shall be punished by a fine of not more than \$1,000 and by imprisonment for not more than 11 months.

3. **Enforcement.** Any sheriff, deputy sheriff, constable, municipal or state police officer, if he has probable cause to believe that a violation of this section has taken place or is taking place, may, at any time, stop any motor vehicle, boat, vessel, airplane or conveyance of any kind, for the purpose of arresting or questioning the operator or occupant thereof, or for the purpose of searching said motor vehicle, boat, vessel, airplane or conveyance of any kind, and may further arrest any person for violation of this section whether or not that violation was committed in his presence.

§ 2384. Sale

1. **To those 21 or over.** Whoever, being 21 years of age or over, sells, exchanges, delivers, barter, gives or furnishes Cannabis or Peyote to any person 21 years of age or over, shall be punished by imprisonment for not less than one nor more than 5 years. The imposition or execution of sentence shall not be suspended, and no probation shall be granted.

2. **To those 18 to 20.** Whoever, being 21 years of age or over, sells, exchanges, delivers, barter, gives or furnishes Cannabis or Peyote to any person 18 to 20 years old, inclusive, shall be punished by imprisonment for not less than 2 nor more than 6 years. The imposition or execution of sentence shall not be suspended, and no probation shall be granted.

3. To those under 18. Whoever, being 21 years of age or over, sells, exchanges, delivers, barter, gives or furnishes Cannabis or Peyote to any person under the age of 18 years old, shall be punished by imprisonment for not less than 3 nor more than 8 years; and for any subsequent offense, by imprisonment for not less than 4 nor more than 10 years. The imposition or execution of sentence shall not be suspended, and no probation shall be granted.

4. By those under 21. Whoever, being less than 21 years of age, sells, exchanges, delivers, barter, gives or furnishes Cannabis or Peyote to any person shall be punished by imprisonment for not less than one nor more than 5 years. The imposition or execution of sentence shall not be suspended, and no probation shall be granted.

§ 2385. Persons exempted

The provisions of this chapter restricting the possession of Cannabis or Peyote shall not apply to public officers or their employees in the performance of their official duties requiring possession or control of Cannabis or Peyote; nor to temporary, incidental possession by persons who are aiding public officers in performing their official duties.

§ 2386. Cannabis and Peyote; contraband

Cannabis or Peyote unlawfully in the possession or under the control of any person and which are kept and deposited in the State or intended for unlawful sale or sold in the State, and the vessels in which they are contained, are contraband and forfeited to the State of Maine at the time when they are seized.