

MAINE STATE LEGISLATURE

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(EMERGENCY)
(New Title)
New Draft of: H. P. 457, L. D. 612

ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 1813

H. P. 1391 House of Representatives, June 8, 1971
Reported by Mrs. Baker from Committee on Judiciary and printed under
Joint Rules No. 18.

BERTHA W. JOHNSON, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

**AN ACT Relating to the Possession and Sale of Certain Hallucinogenic
Drugs.**

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, certain weaknesses and technical defects in the existing drug laws substantially affect their enforceability; and

Whereas, clarification of certain drug laws is needed to effectively combat the increasing drug abuse problem in the State of Maine; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. R. S., T. 22, § 2206, repealed. Section 2206 of Title 22 of the Revised Statutes, as amended, is repealed.

Sec. 2. R. S., T. 22, § 2212-B, repealed and replaced. Section 2212-B of Title 22 of the Revised Statutes, as enacted by section 5 of chapter 390 of the public laws of 1967, and as amended by section 3 of chapter 443 of the public laws of 1969, is repealed and the following enacted in place thereof:

§ 2212-B. Possession of certain hallucinogenic drugs

Whoever, except the laboratory of the Department of Health and Welfare, and research centers and laboratories licensed under section 2368-A is in possession of certain hallucinogenic drugs 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. Such hallucinogenic drugs shall include any of the following substances, their optical isomers, and their salts: D-lysergic acid diethylamide (LSD or LSD-25); 2, 5-dimethoxyamphetamine; dimethyltryptamine (DMT); diethyltryptamine (DET); dipropyltryptamine (DPT); psilocin; psilocybin; bufotenine; ibogaine; tetrahydrocannabinol (THC); 4-methyl-2, 5 dimethoxyamphetamine (DOM or STP); phencyclidine (PCP); 3, 4-methylenedioxyamphetamine (MDA); 2, 3-methylenedioxyamphetamine; methoxymethylenedioxyamphetamine (MMDA), including all position isomers; trimethoxyamphetamine (TMA), including all position isomers; N-ethyl piperidyl benzilate (JB-318), including all position isomers; N-methyl piperidyl benzilate (JB-336), including all position isomers.

Sec. 3. R. S., T. 22, § 2212-C, additional. Title 22 of the Revised Statutes is amended by adding a new section 2212-C to read as follows:

§ 2212-C. Selling of certain hallucinogenic drugs

Whoever, except the laboratory of the Department of Health and Welfare, and research centers and laboratories licensed under section 2368-A, sells, exchanges, delivers, barter, gives or furnishes any of the substances listed in section 2212-B shall upon conviction thereof be punished by a fine of not more than \$3,000 or by imprisonment for not more than 10 years, or by both for the first offense; and for a 2nd or subsequent offense, by imprisonment for not less than 2 years nor more than 10 years for which the imposition or execution of such sentence shall not be suspended and probation shall not be granted.

Sec. 4. R. S., T. 22, § 2362, repealed and replaced. Section 2362 of Title 22 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 2362. Uses of narcotic drugs

Whoever shall manufacture, possess, have under his control, sell, prescribe, administer, dispense or compound any narcotic drug, except as authorized in this chapter, shall upon conviction thereof be punished by a fine of not more than \$50,000 or by imprisonment for not more than 20 years, or by both for the first offense; and for a 2nd or subsequent offense, by imprisonment for not less than 5 years nor more than 20 years for which the imposition or execution of such sentence shall not be suspended and probation shall not be granted.

Sec. 5. R. S., T. 22, § 2368-A, repealed and replaced. Section 2368-A of Title 22 of the Revised Statutes, as enacted by section 8 of chapter 390 of the public laws of 1967 and as amended by section 6 of chapter 443 of the public laws of 1969, is repealed and the following enacted in place thereof:

§ 2368-A. Hallucinogenic drugs

No person shall manufacture, compound, mix, cultivate, grow or by any other process produce or prepare hallucinogenic drugs unless for laboratory work or research. Laboratories and research centers using these drugs shall be licensed and regulated by the Bureau of Health. Such hallucinogenic drugs shall include any of the substances listed in section 2212-B.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

This bill eliminates the present sale of opium violation which is treated as a misdemeanor and concentrates on the violations regarding narcotic drugs in Title 22, section 2362 and provides a specific corresponding penalty provision for the sale and possession of narcotic drugs.

The bill further expressly lists all hallucinogenic drugs and creates a separate and distinct crime for the sale of LSD and other hallucinogenic drugs.