

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 889

H. P. 682

House of Representatives, February 14, 1973

Referred to the Committee on Judiciary. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. Santoro of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

**AN ACT to Provide Penalties for Sale of Counterfeit Substances which are
not Drugs.**

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

Sec. 1. R. S., T. 22, § 2210, amended. Section 2210 of Title 22 of the Revised Statutes, as amended, is further amended by adding after the first sentence the following new sentence:

These provisions shall apply to substances purporting to be such drugs.

Sec. 2. R. S., T. 22, § 2210-A, amended. The first sentence of section 2210-A of Title 22 of the Revised Statutes, as enacted by section 2 of chapter 621 of the public laws of 1971, is amended to read as follows:

It shall be unlawful for any person, firm or corporation to sell or offer to sell any amphetamines or derivatives or compounds thereof **or purporting to be such substances.**

Sec. 3. R. S., T. 22, § 2212-C, amended. Section 2212-C of Title 22 of the Revised Statutes, as enacted by section 3 of chapter 487 and as amended by section 3 of chapter 621, both of the public laws of 1971, is further amended to read as follows:

§ 2212-C. Furnishing, etc. of certain hallucinogenic drugs

Whoever, except the laboratory of the Department of Health and Welfare, exchanges, delivers, barter, gives or furnishes any of the substances listed in section 2212-B **or purporting to be such substances** 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, § 2212-E, amended. The first sentence of section 2212-E of Title 22 of the Revised Statutes, as enacted by section 4 of chapter 621 of the public laws of 1971, is amended to read as follows:

Whoever, except the laboratory of the Department of Health and Welfare, sells any of the substances listed in section 2212-B **or purporting to be such substances** shall upon conviction thereof be punished by not less than one nor more than 5 years imprisonment and by a fine of not more than \$1,000 for the first offense; and for a 2nd offense by not less than 5 nor more than 10 years imprisonment and by a fine of not more than \$5,000; and for a 3rd or subsequent offense by not less than 10 nor more than 40 years imprisonment and by a fine of not more than \$10,000.

Sec. 5. R. S., T. 22, § 2362-C, amended. Section 2362-C of Title 22 of the Revised Statutes, as enacted by section 7 of chapter 621 of the public laws of 1971, is amended to read as follows:

§ 2362-C. Penalty

Whoever shall manufacture, sell, prescribe, administer, dispense or compound any narcotic drug **or purporting to be such drug**, except as authorized in this chapter, shall upon conviction thereof be punished by imprisonment for not less than one nor more than 20 years and by a fine of not more than \$50,000 for a first offense; and for a 2nd offense by imprisonment for not less than 5 nor more than 20 years and by a fine of not more than \$50,000, and for a 3rd and subsequent offense by imprisonment for not less than 10 nor more than 40 years and by a fine of not more than \$50,000.

Sec. 6. R. S., T. 22, § 2384, amended. Section 2384 of Title 22 of the Revised Statutes, as enacted by section 7 of chapter 443 of the public laws of 1969 and as repealed and replaced by section 3 of chapter 472 of the public laws of 1971, is amended to read as follows:

§ 2384. Sale

Whoever sells, exchanges, delivers, barters, gives or furnishes Cannabis, Mescaline or Peyote **or purporting to be such drug** to any person shall upon conviction thereof be punished by a fine of not more than \$1,000 or by imprisonment for not more than 5 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 not be granted.

STATEMENT OF FACT

The purpose of this bill will facilitate the prosecution of individuals who sell substances which are not in fact the dangerous drugs designated in the sections enumerated.

Many street sales are made of substances which when induced into the blood stream or taken orally are deadly or extremely harmful necessitating emergency services. At critical times tests will not reveal the substance and emergency treatment would be delayed.