

MAINE STATE LEGISLATURE

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(Governor's Bill)
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1414

H.P. 1051 House of Representatives, May 4, 1987
Reference to the Committee on Judiciary suggested and
ordered printed.

EDWIN H. PERT, Clerk
Presented by Representative TAYLOR of Camden.

Cosponsored by Representative HIGGINS of Scarborough,
Senators TWITCHELL of Oxford and WEBSTER of Franklin.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

1 AN ACT Relating to Aggravated Trafficking or
2 Furnishing Scheduled Drugs under the
3 Maine Criminal Code.
4

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

7 Sec. 1. 17-A MRSA §1103, sub-§3, as amended by
8 PL 1979, c. 127, §128, is repealed and the following
9 enacted in its place:

10 3. A person shall be presumed to be unlawfully
11 trafficking in scheduled drugs if he intentionally or
12 knowingly possesses more than:

13 A. Two pounds of marijuana;

1 B. Fourteen grams of any compound, mixture or
2 preparation containing cocaine or any salt,
3 isomer or derivative thereof; or

4 C. Thirty grams of any compound, mixture or
5 preparation containing heroin, diacetylmorphine.

6 **Sec. 2.** 17-A MRSa §1105, sub-§1, as amended by
7 PL 1975, c. 740, §102, is repealed and the following
8 enacted in its place:

9 1. A person is guilty of aggravated trafficking
10 or furnishing scheduled drugs if:

11 A. In violation of section 1103, 1104 or 1106,
12 he traffics with or furnishes to a child, in
13 fact, under 16 years of age a scheduled drug; or

14 B. In violation of section 1103, 1104 or 1106,
15 he traffics in or furnishes a scheduled drug at a
16 location which is, in fact, in or on, or within
17 1,000 feet of, the real property comprising a
18 public or private elementary, vocational or sec-
19 ondary school or a public or private college,
20 junior college or university; or

21 C. He violates section 1103, 1104 or 1106, and,
22 at the time of the offense, he was been convicted
23 of any offense under this chapter punishable by a
24 term of imprisonment of more than one year, or
25 under any law of the United States or of another
26 state relating to scheduled drugs, as defined in
27 this chapter, and punishable by a term of impris-
28 onment of more than one year. For purposes of
29 this paragraph, a person shall have been convict-
30 ed of an offense on the date the judgment of con-
31 viction was entered by the trial court.

32 **Sec. 3.** 17-A MRSa §1106, sub-§3, as enacted by
33 PL 1975, c. 499, §1, is repealed and the following
34 enacted in its place:

35 3. A person shall be presumed to be unlawfully
36 furnishing a scheduled drug if he intentionally or
37 knowingly possesses more than:

38 A. One and one half ounces of marijuana;

1 B. Four grams of any compound, mixture or prepa-
2 ration containing cocaine or any salt, isomer or
3 derivative thereof; or

4 C. Ten grams of any compound, mixture or prepa-
5 ration containing heroin, diacetylmorphine.

6 Sec. 4. 17-A MRSA §1107, sub-§2, as repealed and
7 replaced by PL 1977, c. 649, §6, is amended to read:

8 2. Violation of this section is:

9 A. A Class C crime if the drug is heroin
10 (diacetylmorphine) or a drug included in section
11 1102, subsection 1, paragraph F;

12 B. A Class D crime if the drug is a ~~schedule-W~~
13 ~~drug other than heroin--(diacetylmorphine)--or--a~~
14 schedule X drug or a schedule W drug for which a
15 penalty is not established by paragraph A; or

16 C. A Class E crime if the drug is a schedule Y
17 drug.

18 Sec. 5. 17-A MRSA §1110, as enacted by PL 1975,
19 c. 499, §1, is amended to read:

20 §1110. Unlawfully supplying hypodermic apparatuses

21 1. A person is guilty of ~~trafficking in unlaw-~~
22 fully supplying hypodermic apparatuses if he inten-
23 tionally or knowingly trafficks traffics in or
24 furnishes a hypodermic apparatus, unless the conduct
25 which constitutes such trafficking or furnishing is
26 either:

27 A. Expressly authorized by Title 22; or

28 B. Expressly made a civil violation by Title 22.

29 2. ~~Trafficking in Unlawfully supplying~~ hypoder-
30 mic apparatuses is a Class E B crime.

31 Sec. 6. 17-A MRSA §1252, sub-§5-A is enacted to
32 read:

1 5-A. Notwithstanding any other provision of this
2 code, for a person convicted of violating section
3 1105, the minimum sentence of imprisonment, which
4 shall not be suspended, shall be as follows: When the
5 sentencing class is Class A, the minimum term of im-
6 prisonment shall be 4 years; when the sentencing
7 class is Class B, the minimum term of imprisonment
8 shall be 2 years and when the sentencing class is
9 Class C, the minimum term of imprisonment shall be
10 one year.

11 STATEMENT OF FACT

12 This bill adds 3 offenses to the existing manda-
13 tory sentencing laws. It amends the Maine Revised
14 Statutes, Title 17-A, section 1105, to include the
15 sale of scheduled drugs to children under 16 years of
16 age, the furnishing of a scheduled drug in, on or
17 within 1,000 feet of a school or campus and the con-
18 viction of certain prior offenders within the defini-
19 tion of "aggravated trafficking." The minimum sen-
20 tences imposed by Title 17-A, section 1252, are as
21 follows: Four years for a Class A crime, 2 years for
22 a Class B crime and one year for a Class C crime.

23 This bill also makes possession of cocaine a
24 Class C crime and, in addition, broadens the hypoder-
25 mic apparatus law by making it a crime to furnish, as
26 well as traffic in, those devices. The sentencing
27 class of this hypodermic apparatus law is increased
28 from Class C to Class B. Finally, this bill creates a
29 presumption that a person is unlawfully trafficking
30 in scheduled drugs if he intentionally or knowingly
31 possesses more than certain defined amounts of mari-
32 juana, cocaine or heroin.

33 Section 1 of the bill creates a presumption that
34 a person who intentionally or knowingly possesses 14
35 grams of a preparation containing cocaine or 30 grams
36 of a preparation containing heroin is unlawfully
37 trafficking in a scheduled drug.

38 Section 3 of the bill creates a presumption that
39 a person who intentionally or knowingly possesses 4
40 grams of a preparation containing cocaine or 10 grams

1 of a preparation containing heroin is unlawfully fur-
2 nishing a scheduled drug.

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