

MAINE STATE LEGISLATURE

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L.D. 1822

(Filing No. H-399)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
113TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE OF CONFERENCE AMENDMENT "A" to H.P.
1332, L.D. 1822, Bill, "AN ACT Relating to Aggravated
Trafficking or Furnishing Scheduled Drugs under the
Maine Criminal Code."

Amend the bill by striking out all of section 7
and inserting in its place the following:

'Sec. 7. 17-A MRSa §1252, sub-§5-A is enacted to
read:

5-A. Notwithstanding any other provision of this
Code, for a person convicted of violating section
1105:

A. Except as otherwise provided in paragraphs B
and C, the minimum sentence of imprisonment,
which shall not be suspended, shall be as fol-
lows: When the sentencing class is Class A, the
minimum term of imprisonment shall be 4 years;
when the sentencing class is Class B, the minimum
term of imprisonment shall be 2 years; and, with
the exception of trafficking or furnishing mari-
juana under section 1105, when the sentencing
class is Class C, the minimum term of imprison-
ment shall be one year;

B. The court may impose a sentence other than a
minimum unsuspended term of imprisonment set
forth in paragraph A, if:

(1) The court finds by substantial evidence
that:

(a) Imposition of a minimum
unsuspended term of imprisonment under
paragraph A will result in substantial

1 injustice to the defendant. In making
2 this determination, the court shall
3 consider, among other considerations,
4 whether the defendant did not know and
5 reasonably should not have known that
6 the victim was under 18 years of age;

7 (b) Failure to impose a minimum
8 unsuspended term of imprisonment under
9 paragraph A will not have an adverse
10 effect on public safety; and

11 (c) Failure to impose a minimum
12 unsuspended term of imprisonment under
13 paragraph A will not appreciably impair
14 the effect of paragraph A in deterring
15 others from violating section 1105; and

16 (2) The court finds that:

17 (a) The defendant has no prior crimi-
18 nal history; and

19 (b) The defendant is an appropriate
20 candidate for an intensive supervision
21 program, but would be ineligible to
22 participate under a sentence imposed
23 under paragraph A; or

24 (c) The defendant's background, atti-
25 tude and prospects for rehabilitation
26 and the nature of the victim and the
27 offense indicate that imposition of a
28 sentence under paragraph A would frus-
29 trate the general purposes of sentenc-
30 ing set forth in section 1151.

31 If the court imposes a sentence under this para-
32 graph, the court shall state in writing its rea-
33 sons for its findings and for imposing a sentence
34 under this paragraph rather than under paragraph
35 A; and

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COMMITTEE OF CONFERENCE AMENDMENT "A" to H.P. 1332, L.D. 1822

1 C. If the court imposes a sentence under para-
2 graph B, the minimum sentence of imprisonment,
3 which shall not be suspended, shall be as fol-
4 lows: When the sentencing class is Class A, the
5 minimum term of imprisonment shall be 9 months;
6 when the sentencing is Class B, the minimum term
7 of imprisonment shall be 6 months; and with the
8 exception of trafficking or furnishing marijuana
9 under section 1105, when the sentencing class is
10 Class C, the minimum term of imprisonment shall
11 be 3 months.

12 FISCAL NOTE

13 This bill will have a significant impact on the
14 General Fund beginning in fiscal year 1990. This
15 will occur due to the mandatory sentencing imposed,
16 resulting in a larger number of prisoners serving a
17 longer period of time.'

18 STATEMENT OF FACT

19 This amendment:

20 1. Deletes aggravated trafficking or furnishing
21 of 2 pounds or less of marijuana from any mandatory
22 minimum term of imprisonment; and

23 2. Under certain circumstances, permits a court
24 to sentence any other offender of the aggravated
25 trafficking or furnishing law to a sentence other
26 than the mandatory minimum term of imprisonment set
27 by the bill. The amendment requires the court to
28 consider certain factors and make written findings
29 before setting an alternate sentence. In no event
30 may the court sentence such an offender to less than
31 mandatory imprisonment for 9 months for a Class A
32 crime; 6 months for a Class B crime; or 3 months for
33 a Class C crime, other than one involving aggravated

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1 trafficking or furnishing of 2 pounds or less of mar-
2 ijuana.

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Reported by the Committee of Conference on L.D. 1822
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House
6/17/87 (Filing No. H-399)