

MAINE STATE LEGISLATURE

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(New Draft of H.P. 1051, L.D. 1414)
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1822

H.P. 1332 House of Representatives, June 11, 1987
Reported by the Majority from the Committee on Judiciary
and printed under Joint Rule 2.

EDWIN H. PERT, Clerk

Original bill sponsored 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 1987, c. 164, §1, is further amended to read:

9 3. A person shall be presumed to be unlawfully
10 trafficking in scheduled drugs if he intentionally or
11 knowingly possesses more than 2 pounds of marijuana
12 ~~or one ounce~~, 28 grams or more of cocaine or 28 grams
13 or more of heroin.

14 **Sec. 2.** 17-A MRSA §1103, sub-§4, as enacted by
15 PL 1987, c. 164, §2, is amended to read:

1 4. As used in this section, "cocaine" means co-
2 ~~caine--or any salt, compound, isomer,--derivative~~
3 ~~mixture or preparation which-is-chemically-equivalent~~
4 ~~or--identical--to-any-of-these-substances-and-any-ac-~~
5 ~~tive-or-inactive-ingredient-used-as--a--diluent~~ con-
6 ~~taining cocaine or any salt, isomer or derivative~~
7 ~~thereof. As used in this section, "heroin" means any~~
8 ~~compound, mixture or preparation containing heroin,~~
9 ~~diacetylmorphine.~~

10 Sec. 3. 17-A MRSA §1105, sub-§1, as amended by
11 PL 1975, c. 740, §102, is repealed and the following
12 enacted in its place:

13 1. A person is guilty of aggravated trafficking
14 or furnishing scheduled drugs if:

15 A. In violation of section 1103, 1104 or 1106,
16 he trafficks with or furnishes to a child, in
17 fact, under 18 years of age a scheduled drug; or

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

29 Sec. 4. 17-A MRSA §1106, sub-§3, as amended by
30 PL 1987, c. 164, §3, is amended to read:

31 3. A person shall be presumed to be unlawfully
32 furnishing a scheduled drug if he intentionally or
33 knowingly possesses more than 1 1/2 ounces of mari-
34 juana ~~or-1/2-ounce, 14 grams~~ or more of cocaine or 14
35 grams or more of heroin.

36 Sec. 5. 17-A MRSA §1106, sub-§4, as enacted by
37 PL 1987, c. 164, §4, is amended to read:

38 4. As used in this section, "cocaine" ~~shall~~ and
39 "heroin" have the same meaning-as-defined meanings as
40 in section 1103, subsection 4.

1 Sec. 6. 17-A MRS §1110, as enacted by PL 1975,
2 c. 499, §1, is repealed and the following enacted in
3 its place:

4 §1110. Trafficking in or furnishing hypodermic appa-
5 ratUSES

6 1. A person is guilty of trafficking in or fur-
7 nishing hypodermic apparatuses if he intentionally or
8 knowingly trafficks in or furnishes a hypodermic ap-
9 paratus, unless the conduct which constitutes such
10 trafficking or furnishing is either:

11 A. Expressly authorized by Title 22; or

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

13 2. Trafficking in hypodermic apparatuses is a
14 Class C crime. Furnishing hypodermic apparatuses is a
15 Class D crime.

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

18 5-A. Notwithstanding any other provision of this
19 Code, for a person convicted of violating section
20 1105, the minimum sentence of imprisonment, which
21 shall not be suspended, shall be as follows: When the
22 sentencing class is Class A, the minimum term of im-
23 prisonment shall be 4 years; when the sentencing
24 class is Class B, the minimum term of imprisonment
25 shall be 2 years; and when the sentencing class is
26 Class C, the minimum term of imprisonment shall be
27 one year.

28 STATEMENT OF FACT

29 This new draft:

30 1. Creates a presumption of trafficking for a
31 person intentionally or knowingly possessing 28 grams
32 or more of heroin;

33 2. Creates a presumption of furnishing for a
34 person intentionally or knowingly possessing 14 grams
35 or more of heroin;

