

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1107

H.P. 795

House of Representatives, April 11, 1989

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative SMITH of Island Falls.

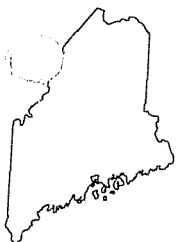
Cosponsored by Representative MOHOLLAND of Princeton, Representative McSWENEY of Old Orchard Beach and Senator BOST of Penobscot.

STATE OF MAINE

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

An Act to Clarify the Definition of Cocaine.

(AFTER DEADLINE)



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

3 **17-A MRSA §1102, sub-§1, ¶F**, as enacted by PL 1975, c. 499,
5 **§1**, is repealed and the following enacted in its place:

7 F. Coca leaves except coca leaves and extracts of coca
9 leaves from which cocaine, ecgonine and derivatives of
11 ecgonine or their salts have been removed; cocaine, its
13 salts, optical and geometric isomers and salts of isomers;
15 ecgonine, its derivatives, their salts, isomers and salts of
17 isomers; or any compound, mixture or preparation of which
19 contains any quantity of any of the substances referred to
21 in this paragraph;

23 **STATEMENT OF FACT**

25 The bill makes substantive changes in the definition of
27 cocaine. It eliminates a hypertechnical defense strategy now
29 colloquially known as the "cocaine L and D defense." As
31 discussed by the First Circuit Court of Appeals in United States
33 v. Francesco, 725 F. 2d 817, 820-821 (1st Cir. 1984), the cocaine
35 L and D defense is to argue through expert testimony at the close
37 of the government's case that there are 8 separate and distinct
isomers of cocaine, but that only 2 of those isomers react with
the human body as a narcotic and are prohibited substances.
Maine's present definition of cocaine was, at the time of its
enactment, the definition of cocaine used by the federal
government.

39 At the present time, there is no case in which the cocaine L
and D defense has been successful in the State. The issue has
been raised, however, by some defense counsel in the context of
negotiating plea agreements. It would be extremely
cost-prohibitive to test and identify all isomers of cocaine in
every sample presented by police. Moreover, few laboratories in
the State possess the equipment necessary to conduct these tests.

41 The adoption of the federal definition of cocaine would more
readily allow Maine courts to look to the larger body of federal
case law in determining any questions arising out of the analysis
of cocaine. This bill is one component of the Attorney General's
drug enforcement legislative package.