

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
114TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 798, L.D. 1110, Bill, "An Act Criminalizing the Unlawful Possession of Class Z Drugs"

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

'An Act Criminalizing the Unlawful Possession of Schedule Z Drugs'

Further amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'Sec. 1. 17-A MRSA §1101, sub-§10, as amended by PL 1975, c. 740, §97, is repealed and the following enacted in its place:

10. "Prescription drug" means a drug which:

A. Under federal law is required, prior to being dispensed or delivered, to be labeled with either of the following statements:

(1) "Caution: Federal law prohibits dispensing without prescription."; or

(2) "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian."; or

B. Is required by an applicable federal or state law or rule to be dispensed on prescription only or is restricted to use by practitioners only.

Sec. 2. 17-A MRSA §1103, sub-§1, ¶A, as enacted by PL 1975, c. 499, §1, is amended to read:

A. Expressly authorized by Title 22 or Title 32; or

Sec. 3. 17-A MRSA §1106, sub-§1, ¶A, as enacted by PL 1975, c. 499, §1, is amended to read:

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A. Expressly authorized by Title 22 or Title 32; or

Sec. 4. 17-A MRSA §1107, as amended by PL 1981, c. 317, §24, is further amended to read:

**§1107. Unlawful possession of scheduled drugs**

1. A person is guilty of unlawful possession of a scheduled drug if he that person intentionally or knowingly possesses what he that person knows or believes to be a scheduled drug, and which is, in fact, a scheduled drug, unless the conduct which constitutes such possession is either:

A. Expressly authorized by Title 22 or Title 32; or

B. Expressly made a civil violation by Title 22.

2. Violation of this section is:

A. A Class C crime if the drug is heroin (diacetylmorphine);

B. A Class D crime if the drug is a schedule W drug other than heroin (diacetylmorphine) or a schedule X drug; or

C. A Class E crime if the drug is a schedule Y or Z drug.

Sec. 5. 17-A MRSA §1110, sub-§1, ¶A, as repealed and replaced by PL 1987, c. 535, §6, is amended to read:

A. Expressly authorized by Title 22 or Title 32; or

Sec. 6. 17-A MRSA §1111, sub-§1, ¶A, as enacted by PL 1975, c. 499, §1, is amended to read:

A. Expressly authorized by Title 22 or Title 32; or

Sec. 7. 22 MRSA c. 558, first 2 lines are repealed and the following enacted in their place:

CHAPTER 558

MARIJUANA, SCHEDULED DRUGS AND IMITATION  
SCHEDULED DRUGS

Sec. 8. 22 MRSA §2383-B is enacted to read:

§2383-B. Authorized possession by individuals; exemptions

1. A person to whom or for whose use any prescription drug has been prescribed, sold or dispensed by a physician, dentist, podiatrist, pharmacist or other person authorized to do so, and

1 the owner or the person having the custody or control of any  
2 animal for which any prescription drug has been prescribed, sold  
3 or dispensed by a licensed veterinarian, may lawfully possess the  
4 drug, except when in use, only in the container in which it was  
5 delivered by the person selling or dispensing the drug.

7 2. The following are authorized to possess and have control  
8 of prescription drugs:

9 A. Common carriers or warehousemen while engaged in  
10 lawfully transporting or storing prescription drugs, or any  
11 of their employees acting within the scope of their  
12 employment;

13 B. Employees or agents of persons lawfully entitled to  
14 possession who have temporary, incidental possession; and

15 C. Persons whose possession is for the purpose of aiding  
16 public officers in performing their official duties.

17 3. As used in this section, the term "prescription drug"  
18 has the same meaning as specified in Title 32, section 13702,  
19 subsection 24, and includes so-called "legend drugs."

## 25 STATEMENT OF FACT

26  
27 Section 1 revises the definition of "prescription drug" to  
28 be consistent with the Maine Revised Statutes, Title 32 and  
29 federal law.

30 Sections 2, 3, 5 and 6 amend the drug laws to include the  
31 reference to Title 32 which now governs pharmacists, pharmacies  
32 and related drug practices formerly governed by the repealed  
33 provisions of Title 22.

34 Section 4 amends Title 17-A, section 1107. The headnote of  
35 Title 17-A, section 1107, is changed to reflect that it covers  
36 illegal possession of all scheduled drugs. The change proposed  
37 by the bill is incorporated into this section.

38 Section 7 changes the chapter heading in Title 22, chapter  
39 558, to accurately reflect the new provisions.

40 That portion of Title 22 authorizing possession of  
41 scheduled, then "narcotic," drugs by those for whom they were  
42 prescribed, the owners of animals for which a veterinarian had  
43 prescribed them, common carriers within the scope of their  
44 employment, was repealed by Public Law 1987, chapter 710, section  
45 3. Section 8 reenacts the old language formerly contained in  
46 sections 2365 and 2366 and broadens it to include all  
47 prescription drugs, not just "narcotics."