

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1116

H.P. 804

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 JACQUES of Waterville.

Cosponsored by Representative McKEEN of Windham, Representative ALLEN of Washington and Representative MITCHELL of Freeport.

STATE OF MAINE

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

An Act to Increase the Penalty for Drug Crimes Committed while in Possession of a Firearm.

(AFTER DEADLINE)



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

3 Sec. 1. 17-A MRSA §1105, sub-§1, ¶¶A and B, as enacted by PL
1987, c. 535, §3, are amended to read:

5 A. In violation of section 1103, 1104 or 1106, he the
7 person trafficks with or furnishes to a child, in fact,
under 18 years of age a scheduled drug; e~~r~~

9 B. He The person violates section 1103, 1104 or 1106, and,
11 at the time of the offense, he has been convicted of any
offense under this chapter punishable by a term of
13 imprisonment of more than one year, or under any law of the
United States or of another state relating to scheduled
15 drugs, as defined in this chapter, and punishable by a term
of imprisonment of more than one year. For purposes of this
17 paragraph, a person shall have been convicted of an offense
on the date the judgment of conviction was entered by the
19 trial court; or

21 Sec. 2. 17-A MRSA §1105, sub-§1, ¶C is enacted to read:

23 C. While in violation of section 1103, 1104 or 1106, the
25 person uses, carries or possesses a firearm.

27
29 **STATEMENT OF FACT**

31 This bill is patterned after a comparable federal law
contained in United States Code, Title 18, Section 924(c), which
provides:

33
35 Whoever, during and in relation to any crime of
violence or drug trafficking ... uses or carries a
firearm, shall, in addition to the punishment
37 provided for such crime of violence or drug
trafficking, be sentenced to imprisonment for 5
39 years.

41 This bill deals more harshly with those who not only use a
firearm in a commission of drug crimes, but those who knowingly
43 make provisions for the potential use of a firearm or knowingly
choose to conduct drug sales at locations where firearms are
45 readily available. The bill goes further than the federal law in
that it does not require that the firearm be used or carried in
47 relation to a drug trafficking crime. The "in relation to"
requirement encourages a number of defendants to argue as a
49 defense that they regularly and usually kept firearms on their

1 person or in their vehicle and that the government could not
2 present evidence that they knowingly or intentionally used the
3 firearm in relation to drug trafficking. This bill is one
4 component of the Attorney General's drug enforcement legislative
5 package.