

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

SECOND REGULAR SESSION - 1990

Legislative Document

No. 2309

H.P. 1668

House of Representatives, February 12, 1990

Submitted by the Department of the Attorney General pursuant to Joint Rule 24.
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 PARADIS of Augusta.

Cosponsored by Representative CAHILL of Mattawamkeag, Representative ERWIN of Rumford and Representative ROTONDI of Athens.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

**An Act to Increase the Criminal Penalties for the Furnishing of and
Trafficking in LSD.**



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

2
3 Sec. 1. 17-A MRSA §1102, sub-§1, ¶I, as amended by PL 1989, c.
4 334, §2, is further amended to read:

6 I. Unless listed or described in another schedule, all
7 narcotic drugs, including, but not limited to, heroin
8 (diacetylmorphine), methadone, pethidine, morphine and
9 opium. As used in this chapter, "heroin" means any
10 compound, mixture or preparation containing heroin. ;

12 Sec. 2. 17-A MRSA §1102, sub-§1, ¶J, as enacted by PL 1977, c.
13 649, §1, is amended to read:

14 J. Phencyclidine; and

16 Sec. 3. 17-A MRSA §1102, sub-§1, ¶K is enacted to read:

18 K. Lysergic acid diethylamide.

20 Sec. 4. 17-A MRSA §1102, sub-§2, ¶H, as enacted by PL 1975, c.
21 740, §100, is amended to read:

24 H. Unless listed or described in another schedule, any of
25 the following hallucinogenic drugs or their salts, isomers
26 and salts of isomers whenever the existence of such salts,
27 isomers and salts of isomers is possible within the specific
28 chemical designation:

- 30 (1) 3, 4 -- methylenedioxy amphetamine; ;
- 32 (2) 5 -- methoxy -- 3, 4 -- methylenedioxy amphetamine; ;
- 34 (3) 3, 4, 5 -- trimethoxy amphetamine; ;
- 36 (4) 4 -- methyl -- 2, 5 -- dimethoxyamphetamine; ;
- 38 (5) Diethyltryptamine; ;
- 40 (6) Dimethyltryptamine; ;
- 42 (7) Dipropyltryptamine; ;
- 44 ~~(8) -- Lysergic acid diethylamide~~
- 46 (9) 2, - 3 methylenedioxy amphetamine; ;
- 48 (10) 2, 5 -- dimethoxyamphetamine; ;
- 50 (11) 4 -- bromo -- 2, 5 -- dimethoxyamphetamine; and
- 52 (12) 4 -- methoxyamphetamine. ;

2 **Sec. 5. 17-A MRSA §1102, sub-§4, ¶C**, as amended by PL 1987, c.
4 747, §1, is further amended to read:

6 C. All nonprescription drugs other than those included in
8 schedules W, X or Y as the Board of Commissioners of the
 Profession of Pharmacy shall duly designate;

10 **Sec. 6. 17-A MRSA §1103, sub-§3**, as amended by PL 1989, c.
 336, is repealed and the following enacted in its place:

12 3. A person is presumed to be unlawfully trafficking in
14 scheduled drugs if the person intentionally or knowingly
 possesses what is, in fact:

16 A. More than 2 pounds of marijuana;

18 B. Fourteen grams or more of cocaine;

20 C. Four grams or more of heroin; or

22 D. Lysergic acid diethylamide in any of the following
24 quantities, states or concentrations:

26 (1) Any compound, mixture, substance or solution in a
 liquid state that contains a detectable quantity of
 lysergic acid diethylamide;

28 (2) Fifty or more squares, stamps, tablets or units of
30 any compound, mixture or substance containing a
 detectable quantity of lysergic acid diethylamide; or

32 (3) Any quantity of any compound mixture or substance
34 that, in the aggregate, contains 2,500 micrograms or
 more of lysergic acid diethylamide.

36 **Sec. 7. 17-A MRSA §1106, sub-§3**, as amended by PL 1989, c. 253
38 and c. 344, §2; and as repealed and replaced by PL 1989, c. 600,
40 Pt. A, §§7 and 8, is repealed and the following enacted in its
 place:

42 3. A person is presumed to be unlawfully furnishing
44 scheduled drugs if the person intentionally or knowingly
 possesses what is, in fact:

46 A. More than 1 1/4 ounces of marijuana;

48 B. Seven grams or more of cocaine;

50 C. Two grams or more of heroin; or

2 D. Lysergic acid diethylamide in any of the following
3 quantities or concentrations:

4 (1) Not less than 25 squares, stamps, tablets or units
5 of any compound mixture or substance containing a
6 detectable quantity of lysergic acid diethylamide; or

7 (2) Any quantity of any compound mixture or substance
8 that, in the aggregate, contains not less than 1,250
9 micrograms of lysergic acid diethylamide.

12
13
14 **STATEMENT OF FACT**

15 This bill moves lysergic acid diethylamide, or LSD, from the
16 less significant Schedule X to the more significant Schedule W.
17 In so doing, the penalties for possession and trafficking in LSD
18 are increased by one class.

19 This bill corrects the language of the law to conform with
20 the name of the Board of Commissioners of the Profession of
21 Pharmacy as established under the Maine Revised Statutes, Title
22 32, chapter 117.
23

24 This bill establishes a rebuttable presumption of
25 trafficking in LSD based on the possession of certain quantities
26 of LSD, while at the same time incorporating the presumptive
27 quantities' previously existing for marijuana, cocaine and
28 heroin. The new presumptive quantities of LSD are largely based
29 on the experiences of the federal Drug Enforcement Administration
30 and the state Bureau of Intergovernmental Drug Enforcement
31 through undercover purchases, laboratory analysis and the
32 debriefing of cooperating defendants, although the quantities are
33 set at a somewhat higher level allowing for a margin of error.
34

35 This bill establishes a rebuttable presumption of furnishing
36 LSD based on the possession of certain quantities of LSD, while
37 at the same time incorporating the presumptive quantities
38 previously existing for marijuana, cocaine and heroin. The new
39 presumptive quantities of LSD are largely based on the
40 experiences of the federal Drug Enforcement Administration and
41 the state Bureau of Intergovernmental Drug Enforcement through
42 undercover purchases, laboratory analysis and the debriefing of
43 cooperating defendants, although the quantities are set at a
44 somewhat higher level allowing for a margin of error.
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46