

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

SECOND REGULAR SESSION - 1990

Legislative Document

No. 2376

H.P. 1720

House of Representatives, March 1, 1990

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 BAILEY of Farmington.

Cosponsored by Representative HANLEY of Paris and Senator MATTHEWS of Kennebec.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

An Act to Amend the Scheduled Drug Laws.



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

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4 **Sec. 1.** 17-A MRSA §1101, sub-§17, ¶C, as enacted by PL 1975,
c. 499, §1, is amended to read:

6 C. To sell, barter, trade, exchange or otherwise furnish
for consideration; or

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10 **Sec. 2.** 17-A MRSA §1101, sub-§17, ¶D, as amended by PL 1977,
c. 647, §1, is further amended to read:

12 D. To possess with the intent to do any act mentioned in
14 paragraph C, except that possession of 2 pounds or less of
marijuana with such intent shall be deemed furnishing; or

16 **Sec. 3.** 17-A MRSA §1101, sub-§17, ¶E is enacted to read:

18 E. To allow the use of a building that the person owns,
20 leases or otherwise controls or has control over for a
purpose set out in paragraph A, B, C or D.

22 **Sec. 4.** 17-A MRSA §1103, sub-§5 is enacted to read:

24 5. Amounts of scheduled drugs involved in violations of
26 this section or section 1106 or 1107, committed pursuant to one
scheme or course of conduct and confiscated within a 48-hour
28 period, may be aggregated to charge a single violation of this
section of appropriate class. Subject to the requirement that
30 the conduct of the defense may not be prejudiced by lack of fair
notice or by surprise, the court may at any time order that a
32 single aggregate count be considered as separate violations. An
aggregate count of violations may not be deemed duplicitous
34 because of such an order and no election may be required.
Prosecution may be brought in any venue in which one of the
36 violations that has been aggregated was committed.

38 **Sec. 5.** 17-A MRSA §1105, sub-§1, ¶¶D and E, as enacted by PL
1989, c. 600, Pt. A, §§5 and 6, are amended to read:

40 D. A person violates section 1103 or 1106, and, at the time
42 of the offense, the person trafficks in or furnishes cocaine
in a quantity of 112 grams or more; or

44 E. A person violates section 1103, and, at the time of the
46 offense, the person is on a school bus or on or within 1,000
feet of the real property comprising a private or public
48 elementary or secondary school. For purposes of this
paragraph, "school bus" has the same meaning as set forth in
Title 29, section 2011, subsection 2; or

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Sec. 6. 17-A MRSA §1105, sub-§1, ¶F is enacted to read:

F. A person violates section 1103, and, as part of the course of conduct that resulted in the commission of the offense, the person enlists or solicits the aid of, or conspires with, a juvenile to traffick in or furnish any scheduled drug.

Sec. 7. 25 MRSA §2003, sub-§4, ¶¶B and C, as enacted by PL 1985, c. 478, §2, are amended to read:

B. Information of record relative to 3 or more convictions of the applicant for crimes punishable by less than one year imprisonment or one or more adjudications of the applicant for juvenile offenses involving conduct which, if committed by an adult, is punishable by less than one year imprisonment; or

C. Information of record indicating that the applicant has engaged in reckless or negligent conduct; or

Sec. 8. 25 MRSA §2003, sub-§4, ¶D is enacted to read:

D. Information of record indicating that the applicant has been convicted or adjudicated of a violation of Title 17-A, chapter 45, or Title 22, section 2383, or that the applicant has been adjudicated of a juvenile crime that is a violation of Title 22, section 2383, or if committed by an adult would be defined as a criminal violation under Title 17-A, chapter 45.

STATEMENT OF FACT

The purpose of this bill is to add several new sections to the drug statutes in order to address methods that drug dealers are currently using.

1. The bill expands the definition of trafficking to include allowing the use of a building for all the activities that are currently defined as trafficking, including making, creating or manufacturing scheduled drugs.

2. The bill allows for the aggregation of the weights of drugs confiscated over a 48-hour period arising out of a single course of conduct for the purpose of determining the proper charge. This change will have an effect on both the violation charged and the penalty.

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3. The bill adds a new course of conduct for which a person may be charged with an aggravated drug offense. This affects persons charged with trafficking. If a person enlists or solicits the aid of a juvenile to traffick in or furnish the drug, it is an aggravated offense.

4. The bill amends the definition of good moral character under the concealed firearms permit law to deny persons who have been convicted or adjudicated of having violated the drug laws within the last 5 years the privilege of obtaining a permit. Such a conviction would also result in the revocation of an existing permit.