

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

SECOND REGULAR SESSION - 1990

Legislative Document

No. 2377

H.P. 1721

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 RICHARDS of Hampden.

Cosponsored by Representative HEPBURN of Skowhegan, Senator LUDWIG of Aroostook and Representative COTE of Auburn.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

**An Act to Reduce the Use of Marijuana and to Make Related
Amendments to the Drug Laws.**



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

2 **Sec. 1. 15 MRSA §5821, sub-§7**, as amended by PL 1989, c. 302,
4 §2, is further amended to read:

6 **7. Real property.** Except as provided in paragraph A, all
8 real property, including any right, title or interest in the
10 whole of any lot or tract of land and any appurtenances or
12 improvements, which is used or intended for use, in any manner or
14 part, to commit or to facilitate the commission of a violation of
16 Title 17-A, section 1103 or 1105, which is a Class A, Class B or
18 Class C crime, ~~with the exception of offenses involving~~
20 marijuana. This subsection does not apply to offenses involving
22 marijuana, except for those offenses that involve the growing or
24 cultivating of 100 or more marijuana plants.

16 A. No property may be forfeited under this subsection, to
18 the extent of an interest of an owner, by reason of an act
20 or omission established by that owner to have been committed
22 or omitted without the knowledge or consent of that owner.
24 When an owner of property which is that person's primary
26 residence proves by a preponderance of the evidence that he
28 that person is the spouse or minor child of the coowner of
30 the primary residence who has used or intended to use the
32 residence, in any manner or part, to commit or facilitate
34 the commission of a violation of Title 17-A, section 1103 or
36 1105, the State shall bear the burden of proving knowledge
38 or consent of the spouse or minor child by a preponderance
40 of the evidence; and

30 **Sec. 2. 17-A MRSA §1103, sub-§2, ¶A**, as amended by PL 1989, c.
32 344, §1, is further amended to read:

34 A. A Class B crime if the drug is a schedule W drug ~~or~~ if
36 it is marijuana in a quantity of 20 pounds or more or if it
38 is marijuana and the person grows or cultivates 500 or more
40 plants;

38 **Sec. 3. 17-A MRSA §1103, sub-§2, ¶B**, as amended by PL 1977, c.
40 647, §2, is further amended to read:

42 B. A Class C crime if the drug is a schedule X drug ~~or~~ if
44 it is marijuana in a quantity of more than 2 pounds or if it
46 is marijuana and the person grows or cultivates 100 or more
48 plants; or

46 **Sec. 4. 17-A MRSA §1107, sub-§1, ¶A**, as amended by PL 1989, c.
48 384, §4, is further amended to read:

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

2 Sec. 5. 17-A MRS §1107, sub-§1, ¶B, as amended by PL 1981, c.
317, §24, is further amended to read:

4 B. Expressly made a civil violation by Title 22.; or

6 Sec. 6. 17-A MRS §1107, sub-§1, ¶C is enacted to read:

8 C. Expressly made a civil violation or Class E crime by
10 section 1107-A.

12 Sec. 7. 17-A MRS §1107-A is enacted to read:

14 §1107-A. Unlawful possession of marijuana

16 1. A person is guilty of unlawful possession of marijuana
17 if that person intentionally or knowingly possesses a useable
18 amount of marijuana.

20 2. Violation of this section is:

22 A. A civil violation for which the court shall adjudge a
23 forfeiture of not less than \$200 nor more than \$400 and
24 which may not be suspended; or

26 B. Notwithstanding section 4-B, subsection 3, a Class E
27 crime, if at the time of the offense the person is operating
28 or attempting to operate a motor vehicle, is in a motor
29 vehicle that the person owns or over which the person has
30 control, or the person has one prior adjudication or
31 conviction for possession of marijuana within a 6-year
32 period. For the purposes of this paragraph, a prior
33 adjudication or conviction has occurred within a 6-year
34 period if the date of the docket entry by the clerk of an
35 adjudication or judgment of conviction is 6 years or less
36 from the date of the new conduct that is penalized or for
37 which the penalty is or may be enhanced. The fine may not
38 be less than \$400 and may not be suspended.

40 Sec. 8. 17-A MRS §1117 is enacted to read:

42 §1117. Suspension of operator's license

44 1. The court shall suspend the operator's license, right to
45 operate or right to obtain a license for a period of one year of
46 any person:

48 A. Convicted of a violation of this chapter or Title 22,
49 section 2383, if it is alleged and proved that the offense
50 involved the use of a motor vehicle, by the defendant or
51 another person with the defendant's knowledge, to possess,
52 furnish or traffick in any scheduled drug;

2 B. Who violates this chapter or Title 22, section 2383, and
4 is adjudicated pursuant to Title 15, section 3310 to have
 committed a juvenile crime; or

6 C. Convicted of a violation of this chapter or Title 22,
8 section 2383 who had not attained 18 years of age at the
 time the offense was committed.

10 2. The court shall give notice of suspension and take
12 physical custody of an operator's license or permit as provided
14 in Title 29, section 2241-H. The court shall immediately forward
 the operator's license and a certified abstract of suspension to
 the Secretary of State.

16 Sec. 9. 22 MRSA §2383, sub-§1, as amended by PL 1989, c. 344,
18 §3, is repealed.

20 Sec. 10. 37-B MRSA §181, sub-§1-A is enacted to read:

22 1-A. By proclamation of the Governor. For periods of up to
24 one year, renewable unless withdrawn by subsequent executive
26 order, the Governor by proclamation may order state military
28 forces to active service to support federal drug enforcement
 operations under the National Defense Authorization Act of 1989
 when members of the National Guard are not ordered to federal
 service.

STATEMENT OF FACT

30 This bill accomplishes the following.

32 1. The bill changes the present drug forfeiture law to
34 allow for forfeiture of lots and tracts of land where 100 or more
36 marijuana plants are grown or cultivated.

38 2. The bill makes it a Class B crime to grow or cultivate
40 500 or more marijuana plants and a Class C crime to grow or
 cultivate 100 or more plants under the trafficking law.

42 3. The bill makes possession of marijuana a distinct
44 offense under the Maine Criminal Code. Unlawful possession is a
46 civil violation, except that it is a Class E crime if at the time
48 of the offense the person is operating or attempting to operate a
 motor vehicle or is in a motor vehicle the person owns or over
 which the person has control. It is also a Class E crime for 2nd
 and subsequent offenses within a 6-year period.

50 4. The bill creates a mandatory driver's license suspension
 for a period of one year for any person convicted of violating
 the drug laws who used a motor vehicle to do so. The suspension

2 also applies to any juvenile convicted of a juvenile crime
involving drugs and anyone under 18 years of age who is convicted
of violating the drug laws.

4

5. The bill enables the Maine National Guard to assist in
6 drug enforcement under an ongoing executive order. Current law,
which requires a separate order for each mission, often
8 jeopardizes effective assistance.