

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

DATE: 3/2/94

(Filing No. H- 785)

JUDICIARY

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE
HOUSE OF REPRESENTATIVES
116TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1116, L.D. 1511, Bill, "An Act to Legalize Marijuana for Medicinal Purposes"

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. 15 MRSA §5821-A is enacted to read:

§5821-A. Property not subject to forfeiture based on medical purposes

Property is not subject to forfeiture under this chapter in the following situations.

1. Possession of marijuana for medical purposes. If the alleged violation that subjects the person's property to forfeiture is possession of marijuana under Title 22, section 2383, the person possessed the marijuana for the person's own use and the amount of marijuana possessed is 1 1/4 ounces or less, that property is not subject to forfeiture if:

A. The person possessed the marijuana for the purpose of alleviating nausea or vomiting as a result of chemotherapy or radiation therapy for treatment of cancer; or

B. The person was diagnosed by a physician before the alleged violation as having Acquired Immune Deficiency Syndrome.

Sec. 2. 22 MRSA §2383, sub-§§3 to 6 are enacted to read:

2
3. Marijuana for medicinal purposes. It is an affirmative
4 defense to an adjudication for possession of marijuana under this
5 section that the person possessed the marijuana for the person's
6 own use, the amount of marijuana possessed is 1 1/4 ounces or
7 less and:

8
A. The person possessed the marijuana for the purpose of
9 alleviating nausea or vomiting as a result of chemotherapy
10 or radiation therapy for treatment of cancer; or

11
B. The person was diagnosed by a physician before the
12 alleged violation as having Acquired Immune Deficiency
13 Syndrome.

14
4. Juveniles. It is an affirmative defense to an
15 adjudication of a juvenile under Title 15, section 3103,
16 subsection 1, paragraph B that the juvenile possessed 1 1/4
17 ounces or less of marijuana, the juvenile possessed the marijuana
18 for the juvenile's own use, the juvenile's parent or other person
19 authorized to make medical decisions for the juvenile authorized
20 the possession and use and:

21
A. The juvenile possessed the marijuana for the purpose of
22 alleviating nausea or vomiting as a result of chemotherapy
23 or radiation therapy for treatment of cancer; or

24
B. The juvenile was diagnosed by a physician before the
25 alleged violation as having Acquired Immune Deficiency
26 Syndrome.

27
5. Burden of proof. The affirmative defense provided by
28 subsections 3 and 4 must be proved by the defendant by a
29 preponderance of the evidence.

30
6. Location. Notwithstanding the affirmative defense
31 provided by subsections 3 and 4, smoking marijuana under
32 circumstances where smoking tobacco would be prohibited under
33 chapter 262 or 263 is subject to the same penalties provided by
34 those chapters for smoking tobacco under the same circumstances.

35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
STATEMENT OF FACT

This amendment removes the provisions of the original bill relating to the Marijuana Therapeutic Research Program. It limits the amount of marijuana that may be possessed and clarifies and expands the purposes for which it may be

COMMITTEE AMENDMENT "A" to H.P. 1116, L.D. 1511

2 possessed. The amendment also clarifies the burden of proof of
the affirmative defense and provides that smoking marijuana is
4 prohibited under the same circumstances as smoking tobacco. This
amendment does not affect prosecutions for the trafficking or
6 furnishing of marijuana.

COMMITTEE AMENDMENT