

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1995

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Legislative Document

No. 1457

H.P. 1038

House of Representatives, May 2, 1995

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**An Act to Discourage the Spread of "Crack" Cocaine.**

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Submitted by the Department of the Attorney General pursuant to Joint Rule 24.  
Reference to the Committee on Criminal Justice suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative BUNKER of Kossuth Township.  
Cosponsored by Representatives: CLARK of Millinocket, CLUKEY of Houlton,  
McALEVEY of Waterboro, PAUL of Sanford, WATERHOUSE of Bridgton, WHEELER of  
Bridgewater.

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

4 **Sec. 1. 17-A MRSA §1102, sub-§1, ¶F**, as repealed and replaced  
by PL 1989, c. 334, §1, is repealed and the following enacted in  
its place:

6 F. Cocaine means:

8 (1) Coca leaves, except coca leaves and extracts of  
10 coca leaves from which cocaine, ecgonine and  
12 derivatives of ecgonine and their salts have been  
removed; and

14 (2) A mixture or preparation that contains any  
quantity of any of the following substances:

16 (a) Cocaine, its salts, optical and geometric  
18 isomers and salts of isomers;

20 (b) Ecgonine, its derivatives, their salts,  
22 isomers and salts of isomers; or

24 (c) Cocaine base, which is the alkaloid form of  
cocaine;

26 **Sec. 2. 17-A MRSA §1107, sub-§2, ¶A**, as repealed and replaced  
by PL 1977, c. 649, §6, is amended to read:

28 A. A Class C crime if the drug is heroin (diacetylmorphine)  
30 or cocaine in the form of cocaine base;

32 **Sec. 3. 17-A MRSA §1107, sub-§2, ¶B**, as amended by PL 1989, c.  
538, §3, is repealed and the following enacted in its place:

34 B. A Class D crime if the drug is:

36 (1) A schedule W drug other than:

38 (a) Heroin (diacetylmorphine); or

40 (b) Cocaine in the form of cocaine base; or

42 (2) A schedule X drug;  
44

46 **STATEMENT OF FACT**

48 This bill responds to the recent appearance in the State of  
cocaine base, commonly referred to as crack cocaine, and seeks to  
50 discourage the spread of cocaine base. While cocaine base use

2 and trafficking became prevalent during the 1980's in other parts  
of the United States, its seizure in the State was almost  
4 nonexistent. Until recently, cocaine trafficking in the State  
almost exclusively involved cocaine hydrochloride (cocaine  
6 powder) in contrast to cocaine base.

8 Cocaine is an alkaloid obtained either by extraction from  
species of the coca plant, *Erythrozyllum*, or by synthesis from  
10 appropriate compounds such as ecgonine. In its native alkaloid  
form, cocaine behaves as a chemical base and can react with an  
12 acid, such as hydrochloric acid, to form a salt (cocaine  
hydrochloride). Cocaine base can be distinguished from its salt  
14 form, cocaine hydrochloride, by differing physical properties  
such as water solubility and melting point. Cocaine  
16 hydrochloride, the powder form of cocaine, is usually ingested by  
snorting, whereas cocaine base can be smoked by heating it and  
18 inhaling the hot vapors. Smoking cocaine base delivers the drug  
to the brain more rapidly than snorting cocaine hydrochloride.  
20 The resulting high is quicker and far more intense, so typically  
the user is addicted more quickly and develops an exponentially  
22 increasing demand for additional cocaine base. "Crack" is the  
street term commonly used for cocaine base. This bill, however,  
24 uses the term cocaine base rather than crack because of the lack  
of consistency in the substances, other than cocaine, found in  
26 what is generally referred to colloquially as crack.

28 Under existing law, possession of cocaine base is a Class D  
misdemeanor. Although this bill increases that class of crime by  
30 one level to a Class C crime, no minimum mandatory sentence is  
required, and it is not anticipated that the periods of actual  
32 incarceration imposed by the courts would substantially  
increase. However, pursuant to the Maine Revised Statutes, Title  
17-A, section 1202, subsection 1, the increase in the class of  
34 crime would act to authorize sentencing courts to impose longer  
periods of probation in appropriate cases. Longer periods of  
36 probation would facilitate and ensure longer periods of drug  
treatment and counseling typically necessitated by the intensity  
38 of the crack cocaine addiction. The disparity between the  
sentences imposed under this bill for cocaine base and for  
40 cocaine hydrochloride is justified by the addictive nature of  
cocaine base and the level of violence associated with its use  
42 and distribution.

44 In other jurisdictions, cocaine base use has caused  
significant long-term drug dependence, infant drug-dependence and  
46 mortality, crack-related violence and the emergence of organized  
drug gangs. This bill seeks to discourage the spread of cocaine  
48 base before the numerous crack cocaine-related social problems

2           experienced in other parts of the United States become a reality  
            of life in the State.