

MAINE STATE LEGISLATURE

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L.D. 1361

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DATE: 5/5/99

(Filing No. H- 458)

CRIMINAL JUSTICE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
119TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 963, L.D. 1361, Bill, "An Act to Increase the Requirement that Drugs be Confiscated from 48 Hours to One Year"

Amend the bill by striking out the title and substituting the following:

'An Act to Increase the Requirement that Drugs be Confiscated from 48 Hours to 6 Months'

Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

'Sec. 1. 17-A MRSA §1103, sub-§5, as enacted by PL 1989, c. 924, §9, is repealed.

Sec. 2. 17-A MRSA §1106-A is enacted to read:

§1106-A. Aggregation of amounts of drugs seized

1. Quantities of scheduled drugs involved in violations of section 1103, 1105 or 1106 committed pursuant to one scheme or course of conduct and confiscated within a 6-month period may be aggregated to charge a single violation of appropriate class. Subject to the requirement that 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 single aggregate count be

COMMITTEE AMENDMENT

2 considered as separate violations. An aggregate count of
3 violations may not be deemed duplicative because of such an order
4 and no election may be required. Prosecution may be brought in
5 any venue in which one of the violations aggregated was committed.

6 2. Quantities of scheduled drugs involved in violation of
7 section 1107 committed pursuant to one scheme or course of
8 conduct and confiscated within a 48-hour period may be aggregated
9 to charge a single violation of appropriate class. Subject to
10 the requirement that the conduct of the defense may not be
11 prejudiced by lack of fair notice or by surprise, the court may
12 at any time order that a single aggregate count be considered as
13 separate violations. An aggregate count of violations may not be
14 deemed duplicative because of such an order and no election may
15 be required. Prosecution may be brought in any venue in which
16 one of the violations aggregated was committed.'

17 Further amend the bill by inserting at the end before the
18 summary the following:
19

22 'FISCAL NOTE

23 This bill may increase the penalties for certain drug
24 offenses by extending the period that drugs confiscated may be
25 aggregated in determining the amount of drugs associated with a
26 particular drug case. The effect on the penalties for certain
27 offenses and the impact on the correctional system can not be
28 determined at this time.

29 The Judicial Department may require additional General Fund
30 appropriations to cover increased indigent defense costs related
31 to those cases when the class of crime is increased. The amounts
32 can not be estimated at this time. The collection of additional
33 fines may also increase General Fund revenue by minor amounts.'

38 SUMMARY

39 The amendment retitles and replaces the bill. The amendment
40 increases the requirement that the drugs be confiscated from a
41 48-hour period to a 6-month period when a prosecutor wishes to
42 aggregate conduct that is committed pursuant to one scheme or
43 course of conduct that involves trafficking, furnishing or
44 aggravated trafficking or furnishing. Drugs confiscated pursuant
45 to a possession charge continue to be limited to the 48-hour
46 confiscation period. The amendment also creates a new section in
47 the Maine Revised Statutes, Title 17-A, chapter 45 to address all
48 aggravation based on confiscation.

49 The summary of the bill incorrectly indicated that the bill
50 included the cultivation statute; neither the bill nor the
51

COMMITTEE AMENDMENT "A" to H.P. 963, L.D. 1361

amendment includes cultivation for purposes of aggregation based
upon confiscation.

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The amendment also adds a fiscal note.