

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 2009

H.P. 1404

House of Representatives, March 23, 1999

An Act to Redefine Trafficking and Furnishing of Heroin in Terms of the Amount of the Drug Possessed.

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 SCHNEIDER of Durham.
Cosponsored by Representatives: DAIGLE of Arundel, MADORE of Augusta.

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

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

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

Sec. 2. 17-A MRSA §1101, sub-§17, ¶D, as amended by PL 1997, c. 481, §1, is further amended to read:

D. To possess with the intent to do any act mentioned in paragraph C; or

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

E. To possess 2 grams or more of heroin or 90 or more individual bags, folds, packages, envelopes or containers of any kind containing heroin.

Sec. 4. 17-A MRSA §1101, sub-§18, ¶B, as enacted by PL 1975, c. 499, §1, is amended to read:

B. To possess with the intent to do any act mentioned in paragraph A; or

Sec. 5. 17-A MRSA §1101, sub-§18, ¶C is enacted to read:

C. To possess at least one gram but less than 2 grams of heroin or at least 45 but fewer than 90 individual bags, folds, packages, envelopes or containers of any kind containing heroin.

Sec. 6. 17-A MRSA §1103, sub-§3, ¶B, as amended by PL 1995, c. 635, §2, is further amended to read:

B. Fourteen grams or more of cocaine or 4 grams or more of cocaine in the form of cocaine base; or

Sec. 7. 17-A MRSA §1103, sub-§3, ¶C, as enacted by PL 1989, c. 924, §8, is repealed.

Sec. 8. 17-A MRSA §1105, sub-§1, ¶E, as amended by PL 1995, c. 65, Pt. A, §58 and affected by §153 and Pt. C, §15, is further amended to read:

E. A person violates section 1103, and, at the time of the offense, the person is on a school bus or on or within 1,000 feet of the real property comprising a private or public elementary or secondary school. For purposes of this

2 paragraph, "school bus" has the same meaning as set forth in
Title 29-A, section 2301, subsection 5; ~~er~~

4 **Sec. 9. 17-A MRSA §1105, sub-§1, ¶F**, as enacted by PL 1989, c.
6 924, §11, is amended to read:

8 F. A person violates section 1103, and, at the time of the
offense, the person enlists or solicits the aid of or
conspires with a child who is, in fact, under 18 years of
10 age, to traffick in or furnish any scheduled drug; ; or

12 **Sec. 10. 17-A MRSA §1105, sub-§1, ¶G** is enacted to read:

14 G. A person violates section 1103 or 1106, and, at the time
16 of the offense, the person trafficks in or furnishes heroin
in a quantity of 4 grams or more or 180 or more individual
18 bags, folds, packages, envelopes or containers of any kind
containing heroin.

20 **Sec. 11. 17-A MRSA §1106, sub-§3, ¶B**, as amended by PL 1995,
22 c. 635, §5, is further amended to read:

24 B. Seven grams or more of cocaine or 2 grams or more of
cocaine in the form of cocaine base; or

26 **Sec. 12. 17-A MRSA §1106, sub-§3, ¶C**, as enacted by PL 1989,
28 c. 924, §12, is repealed.

30 **SUMMARY**

32 This bill brings the treatment of heroin into conformity
with the treatment of other similarly dangerous drugs under the
34 criminal code and eliminates the concept of "presumption" as to
intent. The bill provides for the definition of "trafficking" to
36 include the possession of 2 or more grams or 90 or more packets
of heroin with no further proof of intent needed. The definition
38 of "furnishing" is amended to include the possession of one or
more but less than 2 grams or 45 or more but less than 90 packets
40 of heroin with no further proof of intent required. The bill
does not change current law in that possession of any amount of
42 heroin with the intent to do any act in the Maine Revised
Statutes, Title 17-A, section 1101, subsection 17, paragraph C
44 continues to be "trafficking" and possession of any amount of
heroin with the intent to do any act in Title 17-A, section 1101,
46 subsection 18, paragraph A continues to be "furnishing." The
bill also provides for the trafficking of 4 or more grams or more
48 than 180 packets of heroin to be included in the offense of
aggravated trafficking in or furnishing of scheduled drugs, also
50 to bring the treatment of heroin in line with the treatment of

2 cocaine and cocaine base. The amounts of heroin referred to in
the bill, 45, 90 and 180 packets, relate to the common practice
4 of selling heroin in increments of 50 packets and the tendency of
addict-traffickers to consume several packets of the drug during
6 the trip from the source city, usually out of state, to their
place of residence in Maine.