

MAINE STATE LEGISLATURE

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L.D. 53

DATE: **3-26-03**

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AGRICULTURE, CONSERVATION AND FORESTRY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
121ST LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT **A** to H.P. 61, L.D. 53, Bill, "An Act to Allow Experimentation in the Cultivation of Agricultural Hemp"

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

'An Act To Allow Experimentation in the Cultivation of Industrial Hemp'

Further amend the bill by striking out all of section 1.

Further amend the bill by inserting after section 2 the following:

'Sec. 3. 17-A MRSA §1103, sub-§7 is enacted to read:

7. It is an affirmative defense to prosecution under this section that the substance trafficked in is industrial hemp.

Sec. 4. 17-A MRSA §1105-A, sub-§3 is enacted to read:

3. It is an affirmative defense to prosecution under this section that the substance trafficked in is industrial hemp.

Sec. 5. 17-A MRSA §1105-C, sub-§3 is enacted to read:

3. It is an affirmative defense to prosecution under this section that the substance furnished is industrial hemp.

Sec. 6. 17-A MRSA §1105-D, sub-§3 is enacted to read:

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3. It is an affirmative defense to prosecution under this section that the substance cultivated or grown is industrial hemp.

Sec. 7. 17-A MRSA §1106, sub-§6 is enacted to read:

6. It is an affirmative defense to prosecution under this section that the substance furnished is industrial hemp.

Sec. 8. 17-A MRSA §1107-A, sub-§3 is enacted to read:

3. It is an affirmative defense to prosecution under this section that the substance possessed is industrial hemp.

Sec. 9. 17-A MRSA §1111-A sub-§10 is enacted to read:

10. It is an affirmative defense to prosecution under this section that the drug paraphernalia used or possessed is used or possessed for the propagation, cultivation or processing of industrial hemp.

Sec. 10. 17-A MRSA §1117, sub-§3 is enacted to read:

3. It is an affirmative defense to prosecution under this section that the substance cultivated or grown is industrial hemp.'

Further amend the bill in section 3 by striking out all of the last sentence (page 1, lines 33 to 38 in L.D.) and inserting in its place the following: 'Prior to undertaking a study and prior to importing any nonsterilized industrial hemp seeds capable of germination into the State, the director, in consultation with the Commissioner of Agriculture, Food and Rural Resources, shall obtain all federal permits needed to legally grow industrial hemp for fiber or seed production.'

Further amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment revises the bill to make an affirmative defense to prosecution the fact that the substance possessed, furnished, trafficked in, cultivated or grown is industrial hemp, not marijuana. For an affirmative defense to be effective, the defendant must prove the affirmative defense by a preponderance of the evidence. Therefore, this amendment requires the defendant to prove by a preponderance of the evidence that the substance the prosecution alleges to be marijuana is actually industrial hemp, as defined in the new language. Without this amendment, the prosecution would have to prove that the substance

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2 was not industrial hemp in order to secure a conviction for a
criminal marijuana violation.

4 This amendment also clarifies that federal permits must be
obtained prior to importing nonsterilized hemp seeds.

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