

# MAINE STATE LEGISLATURE

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CRIMINAL JUSTICE AND PUBLIC SAFETY

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

COMMITTEE AMENDMENT "A" to H.P. 701, L.D. 944, Bill, "An Act To Increase Penalties for Furnishing or Trafficking Scheduled Drugs That Cause Death or Serious Bodily Injury"

Amend the bill by striking out all of sections 6 to 8 and inserting in their place the following:

Sec. 6. 17-A MRSA §1105-C, sub-§1, ¶¶I and J, as amended by PL 2003, c. 1, §8, are further amended to read:

I. At the time of the offense, the person furnishes 300 or more pills, capsules, tablets, vials, ampules, syringes or units containing any narcotic drug other than heroin, or any quantity of pills, capsules, tablets, units, compounds, mixtures or substances that, in the aggregate, contains 8,000 milligrams or more of oxycodone or 1,000 milligrams or more of hydromorphone. Violation of this paragraph is a Class B crime; or

J. At the time of the offense, the person furnishes a quantity of 300 or more pills, capsules, tablets or units containing 3, 4-methylenedioxymethamphetamine, MDMA, or any other drug listed in section 1102, subsection 1, paragraph O. Violation of this paragraph is a Class B crime. ;

Sec. 7. 17-A MRSA §1105-C, sub-§1, ¶¶K and L are enacted to read:

K. Death is in fact caused by the use of that scheduled drug and the drug is a schedule W drug. A violation of this paragraph is a Class B crime. It is an affirmative defense to prosecution under this paragraph that the drug furnished

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2 was lawfully possessed by the defendant prior to furnishing  
3 and that the death was not a reasonably foreseeable  
4 consequence of the use of that scheduled drug. In  
5 determining whether the serious bodily injury was reasonably  
6 foreseeable, the jury shall consider:

7 (1) The factual circumstances surrounding the  
8 furnishing of the drug;

10 (2) The total quantity of the drug furnished;

12 (3) The dosage of the units furnished;

14 (4) The nature of the drug;

16 (5) The overdose risk presented by use of the drug; and

18 (6) Any safety warnings provided to the defendant at  
19 the time of dispensing the drug; or

20 L. Serious bodily injury is in fact caused by the use of  
21 that scheduled drug and the drug is a schedule W drug. A  
22 violation of this paragraph is a Class C crime. It is an  
23 affirmative defense to prosecution under this paragraph that  
24 the drug furnished was lawfully possessed by the defendant  
25 prior to furnishing and that the serious bodily injury was  
26 not a reasonably foreseeable consequence of the use of that  
27 scheduled drug. In determining whether the serious bodily  
28 injury was reasonably foreseeable, the jury shall consider:

30 (1) The factual circumstances surrounding the  
31 furnishing of the drug;

34 (2) The total quantity of the drug furnished;

36 (3) The dosage of the units furnished;

38 (4) The nature of the drug;

40 (5) The overdose risk presented by use of the drug; and

42 (6) Any safety warnings provided to the defendant at  
43 the time of dispensing the drug.'

46 **SUMMARY**

48 This amendment provides for an affirmative defense if the  
49 defendant believed that death or serious bodily injury was not  
50 reasonably foreseeable from the use of the lawfully possessed

R.O.S.

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2 scheduled drug that was unlawfully furnished. The affirmative  
3 defense would be available only when a prescription medication  
4 was lawfully prescribed to the defendant, the defendant  
5 unlawfully furnished the medication without payment or other  
6 consideration and death or serious bodily injury resulted that  
7 was not reasonably foreseeable. In assessing whether the death  
8 or serious bodily injury was foreseeable, a jury shall consider  
9 the factual circumstances surrounding the furnishing, the total  
10 quantity of the drug furnished, the dosage of the units  
11 furnished, the nature of the drug, the overdose risk presented by  
12 its use and any safety warnings provided to the defendant at the  
13 time of dispensing.

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**FISCAL NOTE REQUIRED**  
**(See attached)**

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**COMMITTEE AMENDMENT**



**121st Maine Legislature  
Office of Fiscal and Program Review**

**LD 944**

**An Act To Increase Penalties for Furnishing or Trafficking Scheduled  
Drugs That Cause Death or Serious Bodily Injury**

**LR 1820(02)**

**Fiscal Note for Bill as Amended by Committee Amendment " "**

**Committee: Criminal Justice and Public Safety**

**Fiscal Note Required: Yes**

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**Fiscal Note**

Potential current biennium cost increase - General Fund  
Potential current biennium revenue increase - General Fund

**Correctional and Judicial Impact Statements**

Establishes new Class A, B and C crimes; increases correctional and judicial costs