

MAINE STATE LEGISLATURE

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H.P.S.

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Report A

CRIMINAL JUSTICE AND PUBLIC SAFETY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
123RD LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 64, L.D. 66, Bill, "An Act To Ban Salvia Divinorum"

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

'An Act To Prohibit the Transfer of Salvia Divinorum to Minors and To Prohibit Possession of Salvia Divinorum by Minors'

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 17 MRSA c. 70 is enacted to read:

CHAPTER 70

SALVIA DIVINORUM

§2011. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Minor. "Minor" means a person who has not attained 18 years of age.

2. Person. "Person" means an individual, corporation, partnership or unincorporated association.

3. Salvia divinorum. "Salvia divinorum" means the herb Salvia divinorum and includes Salvinorin A and Divinorin A.

4. Transfer. "Transfer" means to sell, furnish, give, lend, deliver or otherwise provide with or without consideration.

§2012. Unlawful transfer of Salvia divinorum to a minor

1. Violation. A person may not transfer Salvia divinorum to a minor.

COMMITTEE AMENDMENT

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1 2. Penalty. A person who violates this section commits a civil violation for which a
2 fine of not less than \$50 and not more than \$1,500, plus court costs, must be adjudged for
3 any one offense. The fine may not be suspended.

4 3. Affirmative defense. It is an affirmative defense to prosecution for a violation of
5 subsection 1 that the person transferred Salvia divinorum to a minor in reasonable
6 reliance upon a fraudulent proof of age presented by the minor.

7 **§2013. Unlawful possession or use of Salvia divinorum by a minor**

8 **1. Violation. A minor may not:**

9 A. Purchase, possess or use Salvia divinorum;

10 B. Violate paragraph A after having previously violated this subsection; or

11 C. Violate paragraph A after having previously violated this subsection 2 or more
12 times.

13 **2. Penalty. A minor who violates subsection 1 commits a civil violation for which**
14 **the following penalties apply.**

15 A. For a violation of subsection 1, paragraph A, a fine of not less than \$100 and not
16 more than \$300 may be imposed. The judge, as an alternative to or in addition to the
17 fine permitted by this paragraph, may assign the minor to perform specified work for
18 the benefit of the State, a municipality or other public entity or a charitable
19 institution.

20 B. For a violation of subsection 1, paragraph B, a fine of not less than \$200 and not
21 more than \$500 may be imposed. The judge, as an alternative to or in addition to the
22 fine permitted by this paragraph, may assign the minor to perform specified work for
23 the benefit of the State, a municipality or other public entity or a charitable
24 institution.

25 C. For a violation of subsection 1, paragraph C, a fine of \$500 must be imposed and
26 that fine may not be suspended. The judge, in addition to the fine required by this
27 paragraph, may assign the minor to perform specified work for the benefit of the
28 State, a municipality or other public entity or a charitable institution.

29 **§2014. Use of false identification by minors prohibited**

30 **1. Use of false identification by minors prohibited. A minor may not:**

31 A. Offer false identification in an attempt to purchase Salvia divinorum;

32 B. Violate paragraph A after having previously violated this subsection; or

33 C. Violate paragraph A after having previously violated this subsection 2 or more
34 times.

35 **2. Penalty. A minor who violates subsection 1 commits a civil violation for which**
36 **the following penalties apply.**

37 A. For a violation of subsection 1, paragraph A, a fine of not less than \$100 and not
38 more than \$300 may be imposed. The judge, as an alternative to or in addition to the
39 fine permitted by this paragraph, may assign the minor to perform specified work for

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1 the benefit of the State, a municipality or other public entity or a charitable
2 institution.

3 B. For a violation of subsection 1, paragraph B, a fine of not less than \$200 and not
4 more than \$500 may be imposed. The judge, as an alternative to or in addition to the
5 fine permitted by this paragraph, may assign the minor to perform specified work for
6 the benefit of the State, a municipality or other public entity or a charitable
7 institution.

8 C. For a violation of subsection 1, paragraph C, a fine of \$500 must be imposed and
9 that fine may not be suspended. The judge, in addition to the fine required by this
10 paragraph, may assign the minor to perform specified work for the benefit of the
11 State, a municipality or other public entity or a charitable institution.'

12 **SUMMARY**

13 This amendment replaces the bill and is the majority report of the Joint Standing
14 Committee on Criminal Justice and Public Safety. The amendment prohibits the transfer
15 of Salvia divinorum to or the possession of the same by persons who are under 18 years
16 of age. The penalties for the prohibited conduct described in the amendment are modeled
17 on the penalties in the Maine Revised Statutes, Title 22, chapter 262-A, subchapter 2,
18 which deals with the prohibition of sales of tobacco to and possession of tobacco by
19 minors.

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



123rd MAINE LEGISLATURE

LD 66

LR 586(02)

An Act To Ban Salvia Divinorum

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

Committee: Criminal Justice and Public Safety

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor revenue increase - General Fund

Correctional and Judicial Impact Statements

Establishes new civil violations

The collection of additional fines may also increase General Fund revenue by minor amounts.