

MAINE STATE LEGISLATURE

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Legislative Document

No. 424

H.P. 340

House of Representatives, January 29, 2007

**An Act To Protect Children from Dangerous Drugs, Harmful
Chemicals and Drug-related Violence**

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative CLEARY of Houlton.
Cosponsored by Senator COURTNEY of York and
Representatives: EATON of Sullivan, MacDONALD of Boothbay, PRESCOTT of Topsham,
SAMSON of Auburn, SILSBY of Augusta.

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

2 **Sec. 1. 17-A MRSA §1105-A, sub-§1, ¶A**, as enacted by PL 2001, c. 383, §119
3 and affected by §156, is amended to read:

4 A. The person trafficks in a scheduled drug with or in the presence of a child who is
5 in fact less than 18 years of age and the drug is:

- 6 (1) A schedule W drug. Violation of this subparagraph is a Class A crime;
7 (2) Marijuana in a quantity of 20 pounds or more. Violation of this
8 subparagraph is a Class A crime;
9 (3) A schedule X drug. Violation of this subparagraph is a Class B crime;
10 (4) Marijuana in a quantity of more than one pound. Violation of this
11 subparagraph is a Class B crime;
12 (5) A schedule Y drug. Violation of this subparagraph is a Class C crime; or
13 (6) A schedule Z drug. Violation of this subparagraph is a Class C crime;

14 **Sec. 2. 17-A MRSA §1105-A, sub-§1, ¶K**, as enacted by PL 2003, c. 476, §2, is
15 amended to read:

16 K. Death is in fact caused by the use of that scheduled drug and the drug is a
17 schedule W drug. A violation of this paragraph is a Class A crime; or

18 **Sec. 3. 17-A MRSA §1105-A, sub-§1, ¶L**, as enacted by PL 2003, c. 476, §2, is
19 amended to read:

20 L. Serious bodily injury is in fact caused by the use of that scheduled drug and the
21 drug is a schedule W drug. A violation of this paragraph is a Class B crime; or

22 **Sec. 4. 17-A MRSA §1105-A, sub-§1, ¶M** is enacted to read:

23 M. The person trafficks or attempts to traffick in a schedule W drug at a residence at
24 which a child less than 18 years of age resides and the basis of the offense is
25 manufacturing or an attempt to manufacture methamphetamine, 3, 4 -
26 methylenedioxymethamphetamine, 3, 4 - methylenedioxy amphetamine, lysergic acid
27 diethylamide or fentanyl. Violation of this paragraph is a Class A crime.

28 **Sec. 5. 17-A MRSA §1252, sub-§5-A, ¶A**, as amended by PL 2001, c. 383,
29 §151 and affected by §156, is further amended to read:

30 A. Except as otherwise provided in paragraphs B and C, the minimum sentence of
31 imprisonment, which may not be suspended, is as follows: When the sentencing class
32 is Class A, the minimum term of imprisonment is 4 years; except that when the
33 conviction is under section 1105-A, subsection 1, paragraph M, the minimum term of
34 imprisonment is 10 years; when the sentencing class is Class B, the minimum term of
35 imprisonment is 2 years; and, with the exception of a conviction under section 1105-
36 A, 1105-B, 1105-C or 1105-D when the drug that is the basis for the charge is
37 marijuana, when the sentencing class is Class C, the minimum term of imprisonment

1 is one year. This paragraph does not apply to a conviction under section 1105-A,
2 subsection 1, paragraph A when the aggravating factor is trafficking in the presence
3 of a child under 18 years of age;

4 **SUMMARY**

5 This bill includes in the offense of aggravated trafficking of scheduled drugs
6 trafficking in the presence of a child under 18 years of age but imposes a longer sentence
7 for a conviction of aggravated trafficking on that basis than the mandatory minimum
8 sentence. This bill also includes in the offense of aggravated trafficking of scheduled
9 drugs trafficking at a residence at which a child of under 18 years of age resides and the
10 basis for the offense is the manufacture or attempt to manufacture methamphetamine, 3, 4
11 - methylenedioxyamphetamine (MDMA), 3, 4 - methylenedioxy amphetamine
12 (MDA), lysergic acid diethylamide (LSD) or fentanyl.