

# MAINE STATE LEGISLATURE

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L.D. 1562

Date: 6-28-11

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
125TH LEGISLATURE  
FIRST REGULAR SESSION

HOUSE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 1147,  
L.D. 1562, Bill, "An Act To Prohibit the Sale or Possession of So-called Bath Salts  
Containing Dangerous Synthetic Drugs"

Amend the amendment by striking out everything after the enacting clause and before  
the emergency clause and inserting the following:

'Sec. 1. 22 MRSA §§2390 to 2394 are enacted to read:

**§2390. Unlawful possession of certain synthetic hallucinogenic drugs**

**1. Unlawful possession.** It is unlawful for a person to possess certain synthetic  
hallucinogenic drugs if the person intentionally or knowingly possesses what that person  
knows or believes to be a certain synthetic hallucinogenic drug, which is in fact a certain  
synthetic hallucinogenic drug, and the drug is:

A. 3, 4 - methylenedioxymethcathinone, MDMC;

B. 3, 4 - methylenedioxypropylvalerone, MDPV;

C. 4 - methylmethcathinone, 4-MMC;

D. 4 - methoxymethcathinone, bk-PMMA, PMMC;

E. 3 - fluoromethcathinone, FMC;

F. 4 - fluoromethcathinone, FMC;

G. Naphthylpyrovalerone, NRG-1; and

H. Beta-keto-N-methylbenzodioxolylpropylamine.

**2. Penalties.** The following penalties apply.

A. A person who violates this section commits a civil violation for which a fine of  
not more than \$350 may be adjudged.

B. A person who violates this section after having been previously adjudicated of  
violating this section commits a civil violation for which a fine of not more than \$500  
may be adjudged.

1 C. A person who violates this section after having been previously adjudicated of  
2 violating this section 2 or more times commits a Class E crime.

3 3. Repeal. This section is repealed June 15, 2013.

4 **§2391. Unlawful trafficking in certain synthetic hallucinogenic drugs**

5 1. Unlawful trafficking. It is unlawful for a person to traffick in certain synthetic  
6 hallucinogenic drugs if the person intentionally or knowingly trafficks in what the person  
7 knows or believes to be a certain synthetic hallucinogenic drug, which is in fact a certain  
8 synthetic hallucinogenic drug listed in section 2390. For purposes of this section,  
9 "traffick" has the same meaning as in Title 17-A, section 1101, subsection 17.

10 2. Penalties. The following penalties apply.

11 A. A person who violates this section commits a Class E crime.

12 B. A person who violates this section after having been previously adjudicated of  
13 violating this section commits a Class D crime.

14 3. Use of a motor vehicle. If a person uses a motor vehicle to facilitate the  
15 trafficking in a certain synthetic hallucinogenic drug listed in section 2390, the court may,  
16 in addition to other authorized penalties, suspend the person's driver's license or permit or  
17 privilege to operate a motor vehicle or right to apply for or obtain a license for a period  
18 not to exceed 5 years. A suspension may not begin until after any period of incarceration  
19 is served. If the court suspends a person's driver's license or permit, privilege to operate a  
20 motor vehicle or right to apply for or obtain a license, the court shall notify the Secretary  
21 of State of the suspension and the court shall take physical custody of the person's license  
22 or permit. The Secretary of State may not reinstate the person's driver's license or permit  
23 or privilege to operate a motor vehicle or right to apply for or obtain a license unless the  
24 person demonstrates that, after having been released and discharged from any period of  
25 incarceration that may have been ordered, the person has served the period of suspension  
26 ordered by the court.

27 4. Repeal. This section is repealed June 15, 2013.

28 **§2392. Aggravated trafficking in certain synthetic hallucinogenic drugs**

29 1. Unlawful aggravated trafficking. A person is guilty of aggravated trafficking in  
30 certain synthetic hallucinogenic drugs if the person violates section 2391 and:

31 A. The person trafficks in a certain synthetic hallucinogenic drug with a child who is  
32 in fact less than 18 years of age;

33 B. At the time of the offense, the person has one or more prior adjudications for any  
34 violation under this chapter or for engaging in substantially similar conduct in  
35 another jurisdiction;

36 C. At the time of the offense, the person possesses a firearm in the furtherance of the  
37 offense, uses a firearm, carries a firearm or is armed with a firearm;

38 D. At the time of the offense, the person is on a school bus or within 1,000 feet of the  
39 real property comprising a private or public elementary or secondary school or a safe  
40 zone as defined in Title 17-A, section 1101, subsection 23. For purposes of this

1 paragraph, "school bus" has the same meaning as defined in Title 29-A, section 2301,  
2 subsection 5; or

3 E. At the time of the offense, the person enlists or solicits the aid of or conspires with  
4 a child who is in fact less than 18 years of age to traffick in a certain synthetic  
5 hallucinogenic drug.

6 **2. Penalty.** Violation of this section is a Class C crime.

7 **3. Use of a motor vehicle.** If a person uses a motor vehicle to facilitate the  
8 aggravated trafficking in a certain synthetic hallucinogenic drug, the court may, in  
9 addition to other authorized penalties, suspend the person's driver's license or permit or  
10 privilege to operate a motor vehicle or right to apply for or obtain a license for a period  
11 not to exceed 5 years. A suspension may not begin until after any period of incarceration  
12 is served. If the court suspends a person's driver's license or permit or privilege to operate  
13 a motor vehicle or right to apply for or obtain a license, the court shall notify the  
14 Secretary of State of the suspension and the court shall take physical custody of the  
15 person's license or permit. The Secretary of State may not reinstate the person's driver's  
16 license or permit or privilege to operate a motor vehicle or right to apply for or obtain a  
17 license unless the person demonstrates that, after having been released and discharged  
18 from any period of incarceration that may have been ordered, the person has served the  
19 period of suspension ordered by the court.

20 **4. Repeal.** This section is repealed June 15, 2013.

21 **§2393. Unlawfully furnishing certain synthetic hallucinogenic drugs**

22 **1. Unlawful furnishing.** It is unlawful for a person to furnish certain synthetic  
23 hallucinogenic drugs if the person intentionally or knowingly furnishes what the person  
24 knows or believes to be a certain synthetic hallucinogenic drug, which is in fact a certain  
25 synthetic hallucinogenic drug listed in section 2390.

26 **2. Penalties.** The following penalties apply.

27 **A.** A person who violates this section commits a Class E crime.

28 **B.** A person who violates this section after having been previously adjudicated as  
29 violating this section commits a Class D crime.

30 **3. Use of a motor vehicle.** If a person uses a motor vehicle to facilitate the unlawful  
31 furnishing of a certain synthetic hallucinogenic drug, the court may, in addition to other  
32 authorized penalties, suspend the person's driver's license or permit or privilege to operate  
33 a motor vehicle or right to apply for or obtain a license for a period not to exceed 5 years.  
34 A suspension may not begin until after any period of incarceration is served. If the court  
35 suspends a person's driver's license or permit or privilege to operate a motor vehicle or  
36 right to apply for or obtain a license, the court shall notify the Secretary of State of the  
37 suspension and the court shall take physical custody of the person's license. The  
38 Secretary of State may not reinstate the person's driver's license or permit or privilege to  
39 operate a motor vehicle or right to apply for or obtain a license unless the person  
40 demonstrates that, after having been released and discharged from any period of  
41 incarceration that may have been ordered, the person has served the period of suspension  
42 ordered by the court.

1           **4. Repeal.** This section is repealed June 15, 2013.

2           **§2394. Aggravated furnishing of certain synthetic hallucinogenic drugs**

3           **1. Aggravated furnishing.** A person is guilty of aggravated furnishing of certain  
4 synthetic hallucinogenic drugs if the person violates section 2393 and:

5           A. The person furnishes a certain synthetic hallucinogenic drug to a child who is in  
6 fact less than 18 years of age;

7           B. At the time of the offense, the person has one or more prior adjudications for any  
8 violation under this chapter or for engaging in substantially similar conduct in  
9 another jurisdiction;

10           C. At the time of the offense, the person possesses a firearm in the furtherance of the  
11 offense, uses a firearm, carries a firearm or is armed with a firearm;

12           D. At the time of the offense, the person is on a school bus or within 1,000 feet of the  
13 real property comprising a private or public elementary or secondary school or a safe  
14 zone as defined in Title 17-A, section 1101, subsection 23. For purposes of this  
15 paragraph, "school bus" has the same meaning as defined in Title 29-A, section 2301,  
16 subsection 5; or

17           E. At the time of the offense, the person enlists or solicits the aid of or conspires with  
18 a child who is in fact less than 18 years of age to furnish a certain synthetic  
19 hallucinogenic drug.

20           **2. Penalty.** Violation of this section is a Class D crime.

21           **3. Use of a motor vehicle.** If a person uses a motor vehicle to facilitate the  
22 aggravated furnishing of a certain synthetic hallucinogenic drug, the court may, in  
23 addition to other authorized penalties, suspend the person's driver's license or permit or  
24 privilege to operate a motor vehicle or right to apply for or obtain a license for a period  
25 not to exceed 5 years. A suspension may not begin until after any period of incarceration  
26 is served. If the court suspends a person's driver's license or permit or privilege to operate  
27 a motor vehicle or right to apply for or obtain a license, the court shall notify the  
28 Secretary of State of the suspension and the court shall take physical custody of the  
29 person's license or permit. The Secretary of State may not reinstate the person's driver's  
30 license or permit or privilege to operate a motor vehicle or right to apply for or obtain a  
31 license unless the person demonstrates that, after having been released and discharged  
32 from any period of incarceration that may have been ordered, the person has served the  
33 period of suspension ordered by the court.

34           **4. Repeal.** This section is repealed June 15, 2013.

35           **Sec. 2. Maine Revised Statutes headnote amended; revision clause.** In the  
36 Maine Revised Statutes, Title 22, chapter 558, in the chapter headnote, the words  
37 "marijuana, scheduled drugs, imitation scheduled drugs and hypodermic apparatuses" are  
38 amended to read "marijuana, scheduled drugs, imitation scheduled drugs, certain  
39 synthetic hallucinogenic drugs and hypodermic apparatuses" and the Revisor of Statutes  
40 shall implement this revision when updating, publishing or republishing the statutes.'

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**SUMMARY**

This amendment reallocates the restriction on the use, trafficking or possession of so-called bath salts proposed in Committee Amendment "A" from the Maine Criminal Code to the Maine Revised Statutes, Title 22 and changes some of the penalties to civil violations and reduces other criminal penalties.

SPONSORED BY: David J. Webster

(Representative WEBSTER)

TOWN: Freeport

**FISCAL NOTE REQUIRED**  
(See attached)



# 125th MAINE LEGISLATURE

LD 1562

LR 2027(06)

## An Act To Prohibit the Sale or Possession of So-called Bath Salts Containing Dangerous Synthetic Drugs

Fiscal Note for House Amendment "A" to Committee Amendment "A"

Sponsor: Rep. Webster of Freeport

Fiscal Note Required: Yes

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### Fiscal Note

Current biennium cost decrease - General Fund

Minor revenue increase - General Fund

### Correctional and Judicial Impact Statements

Eliminates new Class A, Class B and Class C crimes; decreases correctional, indigent legal services and judicial costs.  
Establishes new Class C, Class D and Class E and civil penalties; increases correctional, indigent legal services and judicial costs.

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

### Fiscal Detail and Notes

This amendment lowers the penalty provisions contained in Committee Amendment "A" which reduces the correctional and indigent legal services costs. The bill, as amended, continues to increase costs related to prosecuting and housing offenders. The exact amount of General Fund appropriations by fiscal year needed to support these costs cannot be estimated at this time.