

MAINE STATE LEGISLATURE

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STATE OF MAINE
SENATE
125TH LEGISLATURE
FIRST REGULAR SESSION

SENATE 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 - methylenedioxypyrovalerone, MDPV;

C. 4 - methylmethcathinone, 4-MMC;

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

E. 3 - fluoromethcathinone, FMC;

F. 4 - fluoromethcathinone, FMC;

G. Napthylpyrovalerone, 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.

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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 This section is repealed June 15, 2013.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 civil violation for which a fine of
12 not more than \$1,000 may be adjudged.

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

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

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 This section is repealed June 15, 2013.

29 **§2392. Aggravated trafficking in certain synthetic hallucinogenic drugs**

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

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

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

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

39 D. At the time of the offense, the person is on a school bus or within 1,000 feet of the
40 real property comprising a private or public elementary or secondary school or a safe

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1 zone as defined in Title 17-A, section 1101, subsection 23. For purposes of this
2 paragraph, "school bus" has the same meaning as defined in Title 29-A, section 2301,
3 subsection 5; or

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

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

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

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

22 **§2393. Unlawfully furnishing certain synthetic hallucinogenic drugs**

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

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

28 A. A person who violates this section commits a civil violation for which a fine of
29 not more than \$500 may be adjudged.

30 B. A person who violates this section after having been previously adjudicated as
31 violating this section commits Class E crime.

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

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incarceration that may have been ordered, the person has served the period of suspension ordered by the court.

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

§2394. Aggravated furnishing of certain synthetic hallucinogenic drugs

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

- A. The person furnishes a certain synthetic hallucinogenic drug to a child who is in fact less than 18 years of age;
- B. At the time of the offense, the person has one or more prior adjudications for any violation under this chapter or for engaging in substantially similar conduct in another jurisdiction;
- C. At the time of the offense, the person possesses a firearm in the furtherance of the offense, uses a firearm, carries a firearm or is armed with a firearm;
- D. At the time of the offense, the person is on a school bus or within 1,000 feet of the real property comprising a private or public elementary or secondary school or a safe zone as defined in Title 17-A, section 1101, subsection 23. For purposes of this paragraph, "school bus" has the same meaning as defined in Title 29-A, section 2301, subsection 5; or
- E. At the time of the offense, the person enlists or solicits the aid of or conspires with a child who is in fact less than 18 years of age to furnish a certain synthetic hallucinogenic drug.

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

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

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

Sec. 2. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 22, chapter 558, in the chapter headnote, the words "marijuana, scheduled drugs, imitation scheduled drugs and hypodermic apparatuses" are amended to read "marijuana, scheduled drugs, imitation scheduled drugs, certain

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SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 1147, L.D. 1562

1 synthetic hallucinogenic drugs and hypodermic apparatuses" and the Revisor of Statutes
2 shall implement this revision when updating, publishing or republishing the statutes.'

3 **SUMMARY**

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

7 SPONSORED BY: Richard Rosen JR
8 (Senator ROSEN, R.)

9 COUNTY: Hancock FISCAL NOTE REQUIRED
(See attached)



125th MAINE LEGISLATURE

LD 1562

LR 2027(04)

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

Fiscal Note for Senate Amendment "A" to Committee Amendment "A" **S-362**

Sponsor: Sen. Rosen of Hancock

Fiscal Note Required: Yes

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.