



127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document	No. 113
S.P. 46	In Senate, January 22, 2015

An Act To Reduce the Penalties for Certain Drug Offenses

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

Heath & Print

HEATHER J.R. PRIEST Secretary of the Senate

Presented by Senator KATZ of Kennebec. Cosponsored by Representative DION of Portland and Senators: BRAKEY of Androscoggin, HILL of York, VOLK of Cumberland, Representative: BLACK of Wilton.

1	Be it enacted by the People of the State of Maine as follows:
2 3	Sec. 1. 17-A MRSA §1101, sub-§17, as amended by PL 1999, c. 374, §1 and c. 453, §§1 to 3, is further amended to read:
4	17. "Traffick":
5	A. To make, create, manufacture;
6	B. To grow or cultivate, except for marijuana;
7	C. To sell, barter, trade, exchange or otherwise furnish for consideration; or
8	D. To possess with the intent to do any act mentioned in paragraph C; or.
9 10	E. To possess 2 grams or more of heroin or 90 or more individual bags, folds, packages, envelopes or containers of any kind containing heroin.
11 12	Sec. 2. 17-A MRSA §1101, sub-§18, as amended by PL 1999, c. 453, §§4 and 5, is further amended to read:
13	18. "Furnish:"
14 15	A. To furnish, give, dispense, administer, prescribe, deliver or otherwise transfer to another; <u>or</u>
16	B. To possess with the intent to do any act mentioned in paragraph A; or.
17 18 19	C. To possess at least one gram but less than 2 grams of heroin or at least 45 but fewer than 90 individual bags, folds, packages, envelopes or containers of any kind containing heroin.
20 21	Sec. 3. 17-A MRSA §1103, sub-§1-A, ¶¶A and B, as enacted by PL 2001, c. 383, §115 and affected by §156, are amended to read:
22	A. A schedule W drug. Violation of this paragraph is a Class $\underline{B} \underline{C}$ crime;
23	B. A schedule X drug. Violation of this paragraph is a Class $\bigoplus \underline{D}$ crime;
24 25	Sec. 4. 17-A MRSA §1103, sub-§3, as amended by PL 2001, c. 383, §117 and affected by §156 and amended by c. 419, §§11 to 13, is repealed.
26 27	Sec. 5. 17-A MRSA §1106, sub-§1-A, ¶A, as enacted by PL 2001, c. 383, §121 and affected by §156, is amended to read:
28	A. A schedule W drug. Violation of this paragraph is a Class $C \underline{D}$ crime;
29 30	Sec. 6. 17-A MRSA §1106, sub-§3, as amended by PL 2009, c. 67, §1, is repealed.
31 32	Sec. 7. 17-A MRSA §1107-A, sub-§1, ¶ A , as enacted by PL 2001, c. 383, §127 and affected by §156, is repealed.

- Sec. 8. 17-A MRSA §1107-A, sub-§1, ¶B, as amended by PL 2007, c. 476, §43, 1 2 is repealed. Sec. 9. 17-A MRSA §1107-A, sub-§1, ¶C, as enacted by PL 2001, c. 383, §127 3 4 and affected by §156, is amended to read: 5 C. A schedule W drug, except as provided in paragraphs A and B. Violation of this 6 paragraph is a Class D crime; 7 Sec. 10. 17-A MRSA §1107-A, sub-§4, as amended by PL 2011, c. 464, §19, is further amended to read: 8 9 4. It is an affirmative defense to prosecution under subsection 1, paragraph B, subparagraphs (3) to (6) and paragraphs C to F that the person possessed a valid 10 prescription for the scheduled drug or controlled substance that is the basis for the charge 11 12 and that, at all times, the person intended the drug to be used only for legitimate medical 13 use in conformity with the instructions provided by the prescriber and dispenser. 14 Sec. 11. 17-A MRSA §1110, sub-§1, as amended by PL 2001, c. 383, §131 and 15 affected by §156, is further amended to read: 16 1. Except as provided in subsection 1-B, paragraph A, a person is guilty of trafficking in hypodermic apparatuses if the person intentionally or knowingly trafficks 17 in one or more hypodermic apparatuses. Violation of this subsection is a Class C D 18 19 crime. **SUMMARY** 20
- This bill amends the Maine Criminal Code by striking language that defines as trafficking or furnishing the possession of a certain amount of heroin and all permissible inferences based on possession of schedule W or X drugs. This bill also downgrades felony-level trafficking, furnishing, possession and hypodermic needles offenses.