

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

FIRST REGULAR SESSION-2021

Legislative Document

No. 967

H.P. 713

House of Representatives, March 9, 2021

An Act To Make Possession of Scheduled Drugs for Personal Use a Civil Penalty

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

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative PERRY of Calais.
Cosponsored by Representatives: BROOKS of Lewiston, TALBOT ROSS of Portland,
WARREN of Hallowell, Senator: BRENNER of Cumberland.

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

2 **Sec. 1. 17-A MRSA §1106-A, sub-§2**, as amended by PL 2001, c. 383, §125 and
3 affected by §156, is repealed.

4 **Sec. 2. 17-A MRSA §1107-A**, as amended by PL 2019, c. 12, Pt. B, §§8 and 9, is
5 repealed and the following enacted in its place:

6 **§1107-A. Unlawful possession of scheduled drugs**

7 Unless otherwise specified, possession of a schedule W, X, Y or Z drug is a civil
8 violation for which a fine of up to \$100 may be adjudged. If a person in violation of this
9 section is unable to pay the fine, as an alternative sentence in place of the fine the court
10 may refer the person to a licensed health care provider or drug treatment facility or program
11 provider to conduct an evidence-based assessment for proposed treatment appropriate for
12 a person with substance use disorder as defined in Title 5, section 20003, subsection 17-A.

13 **Sec. 3. 17-A MRSA §1111-B**, as enacted by PL 2019, c. 137, §1 and amended by
14 c. 292, §1, is further amended to read:

15 **§1111-B. Exemption from criminal liability for reporting a drug-related medical**
16 **emergency or administering naloxone**

17 A person who in good faith seeks medical assistance for or administers naloxone
18 hydrochloride to another person experiencing a drug-related overdose or who is
19 experiencing a drug-related overdose and is in need of medical assistance may not be
20 arrested or prosecuted for a violation of section ~~1107-A~~, 1108, 1111 or 1111-A or a
21 violation of probation as authorized by chapter 49 if the grounds for arrest or prosecution
22 are obtained as a result of the person's seeking medical assistance, administering naloxone
23 hydrochloride or experiencing a drug-related overdose.

24 **Sec. 4. 17-A MRSA §1126, sub-§1**, as enacted by PL 2019, c. 113, Pt. B, §17, is
25 amended to read:

26 **1. Fine based on value of scheduled drugs at time of offense.** As authorized by
27 section 1706, subsection 3, if the State pleads and proves the value at the time of the
28 commission of a crime of a scheduled drug that is the basis for a conviction under section
29 1103, 1105-A, 1105-B, 1105-C, 1105-D; or 1106 ~~or 1107-A~~, the convicted person may be
30 sentenced to pay a fine in an amount up to the value, as pleaded and proved by the State,
31 of that scheduled drug.

32 **Sec. 5. 17-A MRSA §1126, sub-§2**, as enacted by PL 2019, c. 113, Pt. B, §17, is
33 amended to read:

34 **2. Mandatory minimum fine barring court finding exceptional circumstances.** In
35 addition to any other authorized sentencing alternative specified in section 1502, subsection
36 2 for individuals or section 1502, subsection 7 for organizations, the court shall impose a
37 minimum fine of \$400, none of which may be suspended, except as provided in subsection
38 3, for an individual convicted of a crime under section 1103; 1104; 1105-A; 1105-B;
39 1105-C; 1105-D; 1106; ~~1107-A~~; 1108; 1109; 1110; 1111; 1111-A, subsection 4-A; 1116;
40 1117; or 1118.

41 **Sec. 6. 17-A MRSA §1902, sub-§5**, as enacted by PL 2019, c. 113, Pt. A, §2, is
42 repealed.

SUMMARY

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This bill changes the unlawful possession of scheduled drugs from a crime to a civil violation for which a fine of not more than \$100 may be adjudged, or if the defendant is unable to pay the fine allows the court to refer the person to a provider for an evidence-based assessment for proposed treatment for substance use disorder.