MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1509

H.P. 964

House of Representatives, April 5, 2023

An Act to Amend Certain Provisions of Maine's Drug Laws

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

R(+ B. Hunt ROBERT B. HUNT

Clerk

Presented by Representative CAMPBELL of Orrington. (BY REQUEST) Cosponsored by Senator: LYFORD of Penobscot.

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:
9 10	G. To possess 2 grams or more of heroin or 90 or more individual bags, folds, packages, envelopes or containers of any kind containing heroin; or
11 12	H. To possess 2 grams or more of fentanyl powder or 90 or more individual bags, folds, packages, envelopes or containers of any kind containing fentanyl powder.
13 14	Sec. 2. 17-A MRSA §1101, sub-§18, as amended by PL 2021, c. 396, §2, is further amended to read:
15	18. "Furnish":
16 17	A. To furnish, give, dispense, administer, prescribe, deliver or otherwise transfer to another; Θ
18	B. To possess with the intent to do any act mentioned in paragraph A-;
19 20 21	E. To possess more than 200 milligrams 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; or
22 23 24	F. To possess more than 200 milligrams but less than 2 grams of fentanyl powder or at least 45 but fewer than 90 individual bags, folds, packages, envelopes or containers of any kind containing fentanyl powder.
25 26	Sec. 3. 17-A MRSA §1103, sub-§3, \P B, as amended by PL 2021, c. 396, §3, is further amended to read:
27 28	B. Fourteen grams or more of cocaine or 4 grams or more of cocaine in the form of cocaine base;
29 30	Sec. 4. 17-A MRSA §1103, sub-§3, ¶C-1, as enacted by PL 2021, c. 396, §3, is repealed.
31 32	Sec. 5. 17-A MRSA §1103, sub-§3, ¶C-2, as enacted by PL 2021, c. 396, §3, is repealed.
33 34	Sec. 6. 17-A MRSA §1105-A, sub-§1, ¶D, as amended by PL 2021, c. 396, §4, is further amended to read:
35 36 37	D. At the time of the offense, the person trafficks in cocaine in a quantity of 112 grams or more or cocaine in the form of cocaine base in a quantity of 32 grams or more. Violation of this paragraph is a Class A crime;

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

Sec. 1. 17-A MRSA §1101, sub-§17, as amended by PL 2021, c. 396, §1, is further

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amended to read:

17. "Traffick":

- Sec. 7. 17-A MRSA §1105-C, sub-§1, ¶D, as amended by PL 2021, c. 396, §5, is further amended to read:
 - D. At the time of the offense, the person furnishes cocaine in a quantity of 112 grams or more or cocaine in the form of cocaine base in a quantity of 32 grams or more. Violation of this paragraph is a Class B crime;
 - **Sec. 8. 17-A MRSA §1106, sub-§3, ¶B,** as amended by PL 2021, c. 396, §6, is further amended to read:
 - B. More than 2 grams of cocaine or 2 grams or more of cocaine in the form of cocaine base;
 - **Sec. 9. 17-A MRSA §1106, sub-§3, ¶C-1,** as enacted by PL 2021, c. 396, §6, is repealed.
- Sec. 10. 17-A MRSA §1106, sub-§3, ¶C-2, as enacted by PL 2021, c. 396, §6, is repealed.

14 SUMMARY

This bill amends provisions of the Maine Criminal Code regarding drugs in the following ways.

- 1. It adds to the definition of "traffick" possessing 2 grams or more of heroin or 90 or more individual bags, folds, packages, envelopes or containers of any kind containing heroin.
- 2. It adds to the definition of "furnish" possessing more than 200 milligrams 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; and possessing more than 200 milligrams but less than 2 grams of fentanyl powder or at least 45 but fewer than 90 individual bags, folds, packages, envelopes or containers of any kind containing fentanyl powder.
- 3. It adds the possession of 4 grams or more of cocaine in the form of cocaine base to the inference under the Maine Rules of Evidence, Rule 303, which allows a court to permit a jury to infer guilt or a fact relevant to guilt based on a statutory presumption.
- 4. It adds to the crime of trafficking the trafficking of cocaine in the form of cocaine base in a quantity of 32 grams or more.
- 5. It adds to the crime of furnishing the furnishing of cocaine in the form of cocaine base in a quantity of 32 grams or more.
- 6. It adds 2 grams or more of cocaine in the form of cocaine base and removes the possession of 2 grams or more of heroin and 2 grams or more of fentanyl powder from the inference under the Maine Rules of Evidence, Rule 303, which allows a court to permit a jury to infer guilt or a fact relevant to guilt based on a statutory presumption.