

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND TENTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 1980 to June 19, 1981

AND AT THE

FIRST SPECIAL SESSION
August 3, 1981

**PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN
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PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
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ONE HUNDRED AND TENTH LEGISLATURE

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30 MRSA § 2065, first sentence is amended to read:

Upon written application of 10% or 100, whichever is less, of the persons whose names were checked on the voting list at any municipal referendum or ballot question under section 1915 or 2061, a ballot inspection or a recount hearing shall be granted.

Effective September 18, 1981

CHAPTER 266

H. P. 67 — L. D. 104

AN ACT to Prohibit the Sale and Use of Drug Paraphernalia.

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

17-A MRSA § 1111-A is enacted to read:

§ 1111-A. Sale and use of drug paraphernalia

1. As used in this section the term “drug paraphernalia” means all equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a scheduled drug in violation of this chapter or Title 22, section 2383. It includes, but is not limited to:

- A. Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a scheduled drug or from which a scheduled drug can be derived;
- B. Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing scheduled drugs;
- C. Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a scheduled drug;
- D. Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of scheduled drugs;
- E. Scales and balances used, intended for use or designed for use in weighing or measuring scheduled drugs;

F. Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting scheduled drugs;

G. Separation gins and sifters, used, intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

H. Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding scheduled drugs;

I. Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of scheduled drugs;

J. Containers and other objects used, intended for use or designed for use in storing or concealing scheduled drugs; and

K. Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

(1) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

(2) Water pipes;

(3) Carburetion tubes and devices;

(4) Smoking and carburetion masks;

(5) Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand;

(6) Miniature cocaine spoons and cocaine vials;

(7) Chamber pipes;

(8) Carburetor pipes;

(9) Electric pipes;

(10) Air-driven pipes;

(11) Chillums;

(12) Bongs; or

(13) Ice pipes or chillers.

2. For purposes of this section, drug paraphernalia does not include hypodermic apparatus. Possession of, furnishing or trafficking in hypodermic apparatus constitute separate offenses under sections 1110 and 1111.

3. In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

- A. Statements by an owner or by anyone in control of the object concerning its use;
- B. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any scheduled drug;
- C. The proximity of the object, in time and space, to a direct violation of this chapter;
- D. The proximity of the object to scheduled drugs;
- E. The existence of any residue of scheduled drugs on the object;
- F. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of this chapter; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this chapter shall not prevent a finding that the object is intended for use or designed for use as drug paraphernalia;
- G. Instructions, oral or written, provided with the object concerning its use;
- H. Descriptive materials accompanying the object which explain or depict its use;
- I. National and local advertising concerning its use;
- J. The manner in which the object is displayed for sale;
- K. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- L. Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;
- M. The existence and scope of legitimate uses for the object in the community; and

N. Expert testimony concerning its use.

4. It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a scheduled drug in violation of this chapter or Title 22, section 2383.

5. It is unlawful for any person to traffick in or furnish drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a scheduled drug in violation of this chapter or Title 22, section 2383.

6. It is unlawful for any person to place in any newspaper, magazine, handbill or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

7. Violation of subsection 4 is a civil violation for which a forfeiture of not more than \$200 may be adjudged.

8. Violation of subsection 5 or 6 is a Class E crime, except that, if the actor trafficks or furnishes drug paraphernalia to a child under 16 years of age, it is a Class D crime.

9. Any drug paraphernalia possessed in violation of this section is declared to be contraband and may be seized and confiscated by the State.

Effective September 18, 1981

CHAPTER 267

H. P. 938 — L. D. 1108

AN ACT to Amend the Law Prohibiting Law Enforcement Officers from Soliciting Funds.

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

Sec. 1. 25 MRSA § 3701, sub-§ 5, ¶¶ A and B, as enacted by PL 1977, c. 449, are repealed and the following enacted in their place: