LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND THIRTEENTH LEGISLATURE

FIRST REGULAR SESSION

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PUBLIC LAWS

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(1) The increase in captured assessed value of property within tax increment financing districts within any county may not exceed the lesser of 1% of the total annual value of equalized taxable property within the county annually or $20,000,000 within a 24-month period; if 1% of a county's equalized taxable value is less than $5,000,000, the annual limit for that county is $5,000,000;

(2) The ~~Director of the State Development Office~~ Commissioner of Economic and Community Development shall promulgate any rules necessary to allocate or apportion the designation of captured assessed value of property within tax increment financing districts in accordance with these limitations; and

(3) Fifteen percent of the project costs for the development program must be incurred within 9 months of the designation by the ~~Director of the State Development Office~~ Commissioner of Economic and Community Development of the tax increment financing district. The development program must be completed within 5 years of the designation by the ~~Director of the State Development Office~~ Commissioner of Economic and Community Development of the tax increment financing district.

Sec. 22. 30 MRSA §4863, sub-§1, ¶D, as amended by PL 1985, c. 163, §4, is further amended to read:

D. Before final designation of a tax increment financing district, the ~~Director of the State Development Office~~ Commissioner of Economic and Community Development shall review the proposal to ensure that it is in compliance with statutory requirements and shall identify tax shifts within the county where the district will exist. A designation under this subsection shall be effective upon approval by the governing body of the municipality and, for tax increment financing districts, the ~~Director of the State Development Office~~ Commissioner of Economic and Community Development. If the municipality has a charter, the designation shall be done in accordance with the provisions of the charter.

Sec. 23. Effective date. This Part shall take effect on October 1, 1987.

PART C

Sec. 1. Study; formal capital budgeting and planning process. The Commissioner of Finance, the Commissioner of Economic and Community Development and the Director of the State Planning Office shall conduct a study to determine the need for and the most effective method of implementing a formal capital budgeting and planning process. The commissioners and the director shall report to the Joint Standing Committee on Appropriations and Financial Affairs on or before February 1, 1988, with accompanying legislation.

Sec. 2. Study; collect and analyze social and economic data related to poverty in the State. The Commissioner of Economic and Community Development shall conduct a study to find the most cost-effective method of implementing a program to collect and analyze social and economic data related to poverty in the State. The commissioners and the director shall report to the Joint Standing Committee on Appropriations and Financial Affairs on or before February 1, 1988, with accompanying legislation.

Sec. 3. Transfers. The State Development Office shall provide the foundation upon which the Department of Economic and Community Development will expand by resources transferred from the following:

	1987-88	1988-89
EXECUTIVE DEPARTMENT		
State Planning Office		
General Fund	$ 328,898	$ 501,331
Federal Expenditure Fund	$ 936,444	$ 1,000,919
Other Special Revenue Funds	$ 7,600,000	$ 7,600,000
Federal Block Grant	$12,166,929	$12,259,000
CONSERVATION, DEPARTMENT OF		
Bureau of Parks and Recreation		
General Fund	$ 66,367	$ 96,518

In addition to the resources transferred, future additional appropriation requests may result due to a lack of specific funding for the upgrade of certain positions to more accurately reflect their expanded responsibilities.

Effective September 29, 1987, unless otherwise indicated.

CHAPTER 535

H.P. 1380 — L.D. 1882

AN ACT Relating to Aggravated Trafficking or Furnishing Scheduled Drugs under the Maine Criminal Code.

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

Sec. 1. 17-A MRSA §1103, sub-§3, as amended by PL 1987, c. 164, §1, is further amended to read:

3. A person shall be presumed to be unlawfully trafficking in scheduled drugs if he intentionally or knowingly possesses more than 2 pounds of marijuana ~~or one ounce~~, 28 grams or more of cocaine or 28 grams or more of heroin.

Sec. 2. 17-A MRSA §1103, sub-§4, as enacted by PL 1987, c. 164, §2, is amended to read:

4. As used in this section, "cocaine" means ~~cocaine or~~ any ~~salt,~~ compound, ~~isomer, derivative~~ mixture or preparation ~~which is chemically equivalent or identical to any of these substances and any active or inactive ingredient used as a diluent~~ containing cocaine or any salt, isomer or derivative thereof. As used in this section, "heroin" means any compound, mixture or preparation containing heroin, diacetylmorphine.

Sec. 3. 17-A MRSA §1105, sub-§1, as amended by PL 1975, c. 740, §102, is repealed and the following enacted in its place:

1. A person is guilty of aggravated trafficking or furnishing scheduled drugs if:

A. In violation of section 1103, 1104 or 1106, he trafficks with or furnishes to a child, in fact, under 18 years of age a scheduled drug; or

B. He violates section 1103, 1104 or 1106, and, at the time of the offense, he has been convicted of any offense under this chapter punishable by a term of imprisonment of more than one year, or under any law of the United States or of another state relating to scheduled drugs, as defined in this chapter, and punishable by a term of imprisonment of more than one year. For purposes of this paragraph, a person shall have been convicted of an offense on the date the judgment of conviction was entered by the trial court.

Sec. 4. 17-A MRSA §1106, sub-§3, as amended by PL 1987, c. 164, §3, is amended to read:

3. A person shall be presumed to be unlawfully furnishing a scheduled drug if he intentionally or knowingly possesses more than 1 1/2 ounces of marijuana ~~or 1/2 ounce,~~ 14 grams or more of cocaine or 14 grams or more of heroin.

Sec. 5. 17-A MRSA §1106, sub-§4, as enacted by PL 1987, c. 164, §4, is amended to read:

4. As used in this section, "cocaine" ~~shall~~ and "heroin" have the same ~~meaning as defined~~ meanings as in section 1103, subsection 4.

Sec. 6. 17-A MRSA §1110, as enacted by PL 1975, c. 499, §1, is repealed and the following enacted in its place:

§1110. Trafficking in or furnishing hypodermic apparatuses

1. A person is guilty of trafficking in or furnishing hypodermic apparatuses if he intentionally or knowingly trafficks in or furnishes a hypodermic apparatus, unless the conduct which constitutes such trafficking or furnishing is either:

A. Expressly authorized by Title 22; or

B. Expressly made a civil violation by Title 22.

2. Trafficking in hypodermic apparatuses is a Class C crime. Furnishing hypodermic apparatuses is a Class D crime.

Sec. 7. 17-A MRSA §1252, sub-§5-A is enacted to read:

5-A. Notwithstanding any other provision of this Code, for a person convicted of violating section 1105:

A. Except as otherwise provided in paragraphs B and C, the minimum sentence of imprisonment, which shall not be suspended, shall be as follows: When the sentencing class is Class A, the minimum term of imprisonment shall be 4 years; when the sentencing class is Class B, the minimum term of imprisonment shall be 2 years; and, with the exception of trafficking or furnishing marijuana under section 1105, when the sentencing class is Class C, the minimum term of imprisonment shall be one year;

B. The court may impose a sentence other than a minimum unsuspended term of imprisonment set forth in paragraph A, if:

(1) The court finds by substantial evidence that:

(a) Imposition of a minimum unsuspended term of imprisonment under paragraph A will result in substantial injustice to the defendant. In making this determination, the court shall consider, among other considerations, whether the defendant did not know and reasonably should not have known that the victim was under 18 years of age;

(b) Failure to impose a minimum unsuspended term of imprisonment under paragraph A will not have an adverse effect on public safety; and

(c) Failure to impose a minimum unsuspended term of imprisonment under paragraph A will not appreciably impair the effect of paragraph A in deterring others from violating section 1105; and

(2) The court finds that:

(a) The defendant has no prior criminal history; and

(b) The defendant is an appropriate candidate for an intensive supervision program, but would be ineligible to participate under a sentence imposed under paragraph A; or

(c) The defendant's background, attitude and prospects for rehabilitation and the nature of the victim and the offense indicate that imposition of a sentence under paragraph A would frustrate the general purposes of sentencing set forth in section 1151.

If the court imposes a sentence under this paragraph, the court shall state in writing its reasons for its findings and for imposing a sentence under this paragraph rather than under paragraph A; and

C. If the court imposes a sentence under paragraph B, the minimum sentence of imprisonment, which shall not be suspended, shall be as follows: When the sentencing class is Class A, the minimum term of imprisonment shall be 9 months; when the sentencing is Class B, the minimum term of imprisonment shall be 6 months; and with the exception of trafficking or furnishing marijuana under section 1105, when the sentencing class is Class C, the minimum term of imprisonment shall be 3 months.

Effective September 29, 1987.

CHAPTER 536

H.P. 962 — L.D. 1291

AN ACT to Implement the Recommendations of the Driver Education Evaluation Program Study.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Division of Driver Education Evaluation Programs is funded entirely from client fees for services; and

Whereas, the number of operating under the influence convictions has decreased, the number of Division of Driver Educational Evaluation Programs clients is not increasing as projected and the costs of the programs have increased; and

Whereas, because of this, the Division of Driver Education Evaluation Programs income is inadequate to maintain the quality of services and level of staffing to meet clients' needs; and

Whereas, the revised fee schedule proposed in this legislation is necessary to prevent reduction in staffing and client services which would take effect July 1, 1987, without this legislative action; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 5 MRSA §12004, sub-§8, ¶A, sub-¶(13-A) is enacted to read:

(13-A)	Human Services	Driver Education Evaluation Program Appeals Board	$75/Day	22 MRSA §7207

Sec. 2. 22 MRSA c. 1602 is enacted to read:

CHAPTER 1602

DRIVER EDUCATION EVALUATION PROGRAMS

§7201. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Alcohol or drug related motor vehicle offense. "Alcohol or drug related motor vehicle offense" means a conviction or administrative action resulting in the suspension of a motor vehicle operator's license for a violation under Title 29, section 1311-A; 1312-B; former section 1312, subsection 10-A; former section 1312-B; former section 1312-C; or section 2241-G, subsection 2, paragraph B, subparagraph (2).

2. Client. "Client" means a person who is required to complete the alcohol and other drug education, evaluation and treatment program for an alcohol or drug related motor vehicle offense.

3. Completion of treatment. "Completion of treatment," for the purpose of recommendation by the department to the Secretary of State concerning restoration of the driver's license to the client, means that the individual has responded to treatment to the extent that there is a substantial probability that the individual will not be operating under the influence. This substantial probability may be shown by:

A. An acknowledgement by the client of the extent of the client's alcohol or drug problem;

B. A demonstrated ability to abstain from the use of alcohol and drugs; and

C. A willingness to seek continued voluntary treatment or to participate in an appropriate self-help program, or both, as necessary.

4. Multiple offender. "Multiple offender" means a client who has more than one alcohol or drug related motor vehicle offense within a 6-year period.

§7202. Division of Driver Education Evaluation

The Division of Driver Education Evaluation shall administer the alcohol and other drug education, evaluation and treatment program. The division shall certify to the Secretary of State:

1. Administration of Driver Education Evaluation Program. Those individuals who have satifactorily completed the program prescribed by section 7203; and

2. Administration of non-Driver Education Evaluation Program. Those individuals who have satisfactorily completed the requirements of this chapter by satisfying the requirement for completion of treatment