

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 7, 1988 to July 1, 1989

Chapters 1 - 502

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
SEPTEMBER 30, 1989

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1989

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
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1989

eligible for high percentages of state subsidy and are most in need of new school facilities; 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:

30-A MRSA §5703, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, cc. 6, 9, is repealed and the following enacted in its place:

§5703. Exclusion

1. Limitations on municipal debt. The limitations on municipal debt in section 5702 shall not be construed as applying to any funds received in trust by any municipality, any loan which has been funded or refunded, notes issued in anticipation of federal or state aid or revenue sharing money, tax anticipation loans, notes maturing in the current municipal year, indebtedness of entities other than municipalities, indebtedness of any municipality to the Maine School Building Authority, debt issued under chapter 235 and Title 10, chapter 110, subchapter IV, obligations payable from revenues of the current municipal year or from other revenues previously appropriated by or committed to the municipality, and the state reimbursable portion of school debt. The limitations on municipal debt set forth in section 5702 do not apply to obligations incurred by one or more municipalities pursuant to Title 38, section 1304-B, with respect to solid waste facilities, which obligations are regulated in the manner set forth in Title 38, section 1304-B.

2. State reimbursement. For the purpose of this section, the state reimbursable portion of school debt with respect to any municipality shall be the amount determined by:

A. Multiplying the outstanding amount of each issue of debt incurred for school purposes by the municipality in connection with a project which qualifies for state school construction aid and the percentage of the capital outlay costs of such project which was applicable to determine the amount of state school construction aid.

(1) The certificate of the Commissioner of Educational and Cultural Services that a project qualifies for state school construction aid and as to the percentage of that aid to which a municipality was entitled shall be conclusive evidence of the facts stated therein; or

B. For school construction projects approved by the State Board of Education after July 1, 1985, by multiplying the outstanding amount of each issue of debt incurred for school purposes by the municipality in connection with a project which qualifies for

state school construction subsidy under Title 20-A and the state share percentage of operating costs for that municipality as defined in Title 20-A, section 15609, subsection 1, paragraph A, subparagraph (1), for the year in which the project received concept approval from the State Board of Education.

(1) The certificate of the Commissioner of Educational and Cultural Services that a project qualifies for state school construction aid and as to the state share percentage of operating costs for that municipality as defined in Title 20-A, section 15609, subsection 1, paragraph A, subparagraph (1), for the year in which the project received concept approval shall be conclusive evidence of the facts stated therein.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective June 20, 1989.

CHAPTER 382

H.P. 820 - L.D. 1148

An Act to Provide for the Forfeiture of Firearms Used to Commit Crimes

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

17-A MRSA §1158 is enacted to read:

§1158. Forfeiture of firearms

As part of every judgment of conviction and sentence imposed, every firearm used by the defendant or any accomplice during the commission of any murder or Class A, Class B or Class C crime shall be forfeited to the State and the court shall so order, unless another person can satisfy the court prior to the judgment and by a preponderance of the evidence that such other person had a right to possess the firearm, to the exclusion of the defendant, at the time of the offense. The Attorney General shall adopt rules in accordance with Title 5, chapter 375, governing the disposition to state, county and municipal agencies of firearms forfeited under this section.

See title page for effective date.

CHAPTER 383

H.P. 816 - L.D. 1144

An Act to Prohibit the Sale of Unlawful Drugs in or near Schools

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

Sec. 1. 17-A MRSA §1105, sub-§1, ¶¶A and B, as enacted by PL 1987, c. 535, §3, are amended to read:

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

B. ~~He~~ The person violates section 1103, 1104 or 1106, and, at the time of the offense, ~~he~~ the person 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; ~~or~~

Sec. 2. 17-A MRSA §1105, sub-§1, ¶C is enacted to read:

C. A person violates section 1103, and, at the time of the offense, the person is on a school bus or on or within 1,000 feet of the real property comprising a private or public elementary or secondary school. For purposes of this paragraph, "school bus" has the same meaning as set forth in Title 29, section 2011, subsection 2.

See title page for effective date.

CHAPTER 384

H.P. 798 - L.D. 1110

An Act Criminalizing the Unlawful Possession of Schedule Z Drugs

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

Sec. 1. 17-A MRSA §1101, sub-§10, as amended by PL 1975, c. 740, §97, is repealed and the following enacted in its place:

10. "Prescription drug" means a drug which:

A. Under federal law is required, prior to being dispensed or delivered, to be labeled with either of the following statements:

(1) "Caution: Federal law prohibits dispensing without prescription."; or

(2) "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian."; or

B. Is required by an applicable federal or state law or rule to be dispensed on prescription only or is restricted to use by practitioners only.

Sec. 2. 17-A MRSA §1103, sub-§1, ¶A, as enacted by PL 1975, c. 499, §1, is amended to read:

A. Expressly authorized by Title 22 or Title 32; or

Sec. 3. 17-A MRSA §1106, sub-§1, ¶A, as enacted by PL 1975, c. 499, §1, is amended to read:

A. Expressly authorized by Title 22 or Title 32; or

Sec. 4. 17-A MRSA §1107, as amended by PL 1981, c. 317, §24, is further amended to read:

§1107. Unlawful possession of scheduled drugs

1. A person is guilty of unlawful possession of a scheduled drug if ~~he~~ that person intentionally or knowingly possesses what ~~he~~ that person knows or believes to be a scheduled drug, and which is, in fact, a scheduled drug, unless the conduct which constitutes such possession is either:

A. Expressly authorized by Title 22 or Title 32; or

B. Expressly made a civil violation by Title 22.

2. Violation of this section is:

A. A Class C crime if the drug is heroin (diacetylmorphine);

B. A Class D crime if the drug is a schedule W drug other than heroin (diacetylmorphine) or a schedule X drug; or

C. A Class E crime if the drug is a schedule Y or Z drug.

Sec. 5. 17-A MRSA §1110, sub-§1, ¶A, as repealed and replaced by PL 1987, c. 535, §6, is amended to read:

A. Expressly authorized by Title 22 or Title 32; or

Sec. 6. 17-A MRSA §1111, sub-§1, ¶A, as enacted by PL 1975, c. 499, §1, is amended to read:

A. Expressly authorized by Title 22 or Title 32; or

Sec. 7. 22 MRSA c. 558, first 2 lines are repealed and the following enacted in their place:

CHAPTER 558

MARIJUANA, SCHEDULED DRUGS AND IMITATION SCHEDULED DRUGS