

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
FIRST REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

1989

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Sec. 1. 17-A MRSA §1101, sub-§10, as amended by PL 1975, c. 740, §97, is repealed and the following enacted in its place: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

Sec. 8. 22 MRSA §2383-B is enacted to read:

§2383-B. Authorized possession by individuals; exemptions

1. Lawfully prescribed drugs. A person to whom or for whose use any prescription drug has been prescribed, sold or dispensed by a physician, dentist, podiatrist, pharmacist or other person authorized to do so, and the owner or the person having the custody or control of any animal for which any prescription drug has been prescribed, sold or dispensed by a licensed veterinarian, may lawfully possess the drug, except when in use, only in the container in which it was delivered by the person selling or dispensing the drug.

2. Other lawfully in possession. The following are authorized to possess and have control of prescription drugs:

A. Common carriers or warehousemen while engaged in lawfully transporting or storing prescription drugs, or any of their employees acting within the scope of their employment;

B. Employees or agents of persons lawfully entitled to possession who have temporary, incidental possession; and

C. Persons whose possession is for the purpose of aiding public officers in performing their official duties.

3. Definition. As used in this section, the term "prescription drug" has the same meaning as specified in Title 32, section 13702, subsection 24, and includes so-called "legend drugs."

See title page for effective date.

CHAPTER 385

S.P. 399 - L.D. 1043

An Act to Clarify the Application of Insurance Holding Company Laws to Holding Companies of Domestic Insurers

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

Sec. 1. 24-A MRSA §222, sub-§2, ¶A-1 is enacted to read:

A-1. Beneficial owner. "Beneficial owner" of a voting security, voting insurance policy or guaranty capital share means any person or group of persons acting in concert who, directly or indirectly, through any contract, arrangement, proxy appointment, understanding, relationship or otherwise, has or shares:

(1) Voting power over the security, policy or guaranty capital share, including the power to vote or to direct the voting of the security, policy or share; or

(2) Investment power over the security, policy or share, including the power to dispose or to direct the disposition of the security, policy or share.

The superintendent may determine that persons are acting in concert, either on the superintendent's own initiative or upon application of an interested person, based upon evidence that actions taken by those persons, if consummated, may permit the exercise of common control, directly or indirectly, over the domestic insurer. The absence of a determination by the superintendent that persons are acting in concert shall not be construed to exempt those persons from compliance with the requirements of this section.

Sec. 2. 24-A MRSA §222, sub-§2, ¶B, as repealed and replaced by PL 1975, c. 356, §1, is amended to read:

B. Control

(1) 'Control,' including 'controlling,' 'controlled by' and 'under common control with,' means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is solely the result of an official position with or a corporate office held by the person. Control shall be presumed to exist if any person; ~~directly or indirectly, owns, controls, holds with the power to vote or holds proxies representing~~ is the beneficial owner of 10% or more of the voting securities, or voting insurance policies in the case of mutual or reciprocal insurers, or guaranty capital shares if a mutual insurer has established a guaranty fund, of any other person. A beneficial owner may rely in determining the amount of voting securities of any person outstanding upon information set forth in that person's most recent quarterly or annual report filed with the Securities and Exchange Commission pursuant to the Exchange Act unless the beneficial owner knows or has reason to believe that the information contained therein is inaccurate. Two or more domestic mutual insurance companies who have restricted their licensed territories to the State of ~~Maine~~ shall not be deemed to be subject ~~of~~ to this section merely because such insurance companies commonly share facilities, incurred expenses, personnel services, or otherwise utilize cost allocations based on generally accepted accounting principles including pro rata sharing of assumed risks.

(2) Notwithstanding the presumption of control contained in subparagraph (1), the superintendent, upon application of the in-