

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 7, 1994 to June 30, 1995

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 29, 1995

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
1995

may not be issued; except that the Legislature may, within 2 years after the expiration of that 5-year period, extend the period for issuing any remaining unissued bonds or bond anticipation notes for an additional amount of time not to exceed 5 years.

Sec. A-10. Referendum for ratification; submission at statewide election; form of question; effective date. This Part must be submitted to the legal voters of the State of Maine at a statewide election held on the Tuesday following the first Monday of November following passage of this Part. The municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, to vote on the acceptance or rejection of this Part by voting on the following question:

"Do you favor a \$58,900,000 bond issue for economic development for improvements to highways, state and local bridges, airports and cargo ports that makes the State eligible for up to \$138,000,000 in matching federal funds?"

The legal voters of each city, town and plantation shall vote by ballot on this question and designate their choice by a cross or check mark placed within a corresponding square below the word "Yes" or "No." The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns and, if a majority of the legal votes are cast in favor of the Part, the Governor shall proclaim the result without delay, and the Part becomes effective 30 days after the date of the proclamation.

The Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this Part necessary to carry out the purpose of this referendum.

PART B

Sec. B-1. 23 MRSA c. 19, sub-c. V-A is enacted to read:

SUBCHAPTER V-A

COLLECTOR ROAD IMPROVEMENT FUND

§1710. Establishment and administration

The Collector Road Improvement Fund, referred to in this subchapter as the "fund," is established to provide for the reconstruction and maintenance of collector roads. The Department of Transportation shall administer the fund. Allocation of funds must be awarded competitively based on guidelines developed

by the department after public hearing. These guidelines must establish a process by which the department receives matching funds from public and private sources to support collector road improvements. The department may set aside any available federal funds into the fund. Local and federal contributions to the fund accrue for redistribution in subsequent program years and do not lapse.

For purposes of this subchapter, "collector roads" means those highways not included in the system of state highways that primarily serve as feeder routes connecting local service roads to the arterial state highway system.

Sec. B-2. Allocation from Highway Fund.

There is allocated from the Highway Fund the sum of \$5,000,000 for fiscal year 1996-97 to the Collector Road Improvement Fund to carry out the purpose of this Part. Any unexpended balance may not lapse but must remain a continuing carrying account until the purpose of this Part has been accomplished.

Sec. B-3. Contingent upon ratification of bond issue. This Part does not take effect unless the bond issue under Part A of this Act is approved by the legal voters of the State.

Effective pending referendum.

CHAPTER 499

S.P. 600 - L.D. 1585

An Act Regarding Narcotic Dependency

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

Sec. 1. 5 MRSA §§20052 and 20053 are enacted to read:

§20052. Long-term methadone and other narcotic drug detoxification and maintenance treatment

Beginning on the date of commencement of treatment under the Long-term Narcotic Dependency Treatment Project authorized under section 20053 long-term methadone and other narcotic drug detoxification and maintenance treatment of narcotic-dependent persons is prohibited except as authorized under section 20053.

§20053. Long-term Narcotic Dependency Treatment Project

1. Treatment project established. The Department of Human Services and the Office of

Substance Abuse shall apply for waivers from the federal Department of Health and Human Services to undertake a 3-year demonstration project on long-term methadone and other narcotic drug detoxification and maintenance treatment for narcotic-dependent persons, referred to in this section as the "treatment project." The treatment project must commence as close as possible to October 15, 1995.

2. Purpose. The Legislature finds that there is a need to study long-term methadone and other narcotic drug detoxification and maintenance treatment for narcotic-dependent persons. The purpose of the treatment project is to study the treatment needs of narcotic-dependent people in this State and the efficacy, cost and impact on this State of long-term methadone and other narcotic drug detoxification and maintenance treatment.

3. Project limitation. Participation in the project is limited to 300 clients at any one time receiving long-term methadone and other narcotic drug detoxification and maintenance treatment for narcotic dependency, of whom a maximum of 100 at any one time may receive the treatment under reimbursement from the Medicaid program. Clients of a treatment program that is licensed in the State who are receiving methadone or other narcotic drug detoxification or maintenance treatment on the date of the commencement of the treatment project have priority as clients under the treatment project. Treatment under the treatment project for persons receiving reimbursement under the Medicaid program must be cost-neutral or result in savings to the Medicaid program.

4. Treatment programs. Treatment under the treatment project may be provided by no more than 2 long-term methadone and other narcotic drug detoxification and maintenance programs, each of which must operate from one location. Each treatment program must be approved for participation in the treatment project by the Department of Human Services and the Office of Substance Abuse. Treatment programs licensed in this State on July 1, 1995 have priority as treatment programs under the treatment project.

5. Rulemaking. In order to protect the public health and safety and allow effective administration and evaluation of the treatment project, the Department of Human Services and the Office of Substance Abuse shall adopt rules for long-term methadone and other narcotic drug detoxification or maintenance treatment taking into consideration issues of best medical practice, individual client needs, the role of clinical judgment in determining services and the cost of providing services. The Office of Substance Abuse shall work cooperatively with interested persons in this State pursuant to the Maine Administrative

Procedure Act, including existing licensed methadone treatment programs, in developing the rules. Rule-making must address the following:

A. License conditions for treatment programs, including, but not limited to, certification of staff persons, safety standards and management policies;

B. Guidelines and treatment protocols for treatment programs that incorporate the standards contained in section 20043 and are compatible with but no more stringent than the applicable federal treatment regulations and guidelines, including, but not limited to, treatment program admission criteria. The guidelines and treatment protocols must reflect best medical practice and phases of treatment but may not impose uniform treatment standards for clients that interfere with the medical discretion of the medical director acting in accordance with recognized, prevailing medical standards, regarding individual client treatment. The guidelines and treatment protocols may not cause unreasonable increases in cost unless necessary to protect the public health and safety;

C. Standards for the distribution of scheduled or prescription drugs and controlled substances and for the security of these drugs and controlled substances consistent with the rules adopted by the Board of Commissioners of the Profession of Pharmacy, including, but not limited to, the use of identifiable containers in dispensing the drugs and controlled substances;

D. Procedures for the immediate disclosure to regulatory and law enforcement authorities by treatment programs of any lost, missing, stolen or diverted scheduled or prescription drugs or controlled substances;

E. Standards for evaluating the effectiveness of long-term methadone and other narcotic drug dependency detoxification and maintenance treatment and the treatment project; and

F. Periodic review of the treatment programs to ensure compliance with the requirements of the treatment project and assist in the evaluation performed pursuant to subsection 9, using the standards for evaluation adopted pursuant to paragraph E, by a clinical review team of professionals and a multidisciplinary advisory group appointed by the Office of Substance Abuse, both of which groups must include individuals with expertise in methadone detoxification and maintenance.

6. Investigation; inspection. In addition to entities authorized to investigate and inspect pursuant

to Title 32, section 13723, the Department of Human Services and the Office of Substance Abuse may investigate and inspect the premises of treatment programs and require the production of information to determine compliance with applicable law and rules. As a condition of receiving treatment under the treatment project, all clients must sign waivers of confidentiality, which enable access to and use of treatment program and patient records for the purposes of listing in a central registry, program oversight and monitoring, enforcement of license and certification requirements and other law enforcement activities to the extent consistent with federal law protecting confidentiality under 42 United States Code, Section 290dd-2 (1995) and implementing regulations, as amended.

7. Employees. Except as authorized by the Director of the Office of Substance Abuse, a person may not be employed by or contract with a treatment program in a capacity in which that person handles or has access to scheduled or prescription drugs or controlled substances if that person has been convicted of a felony or an offense related to the possession, use, sale or distribution of scheduled or prescription drugs or controlled substances under Title 17-A, chapter 45, or under any law of another jurisdiction.

8. Criminal record checks. The treatment programs must perform criminal record checks of all potential and current employees, contractors and volunteers to ensure adherence to the requirements of subsection 7. The treatment programs shall pay for these record checks.

9. Planning; evaluation. The Department of Human Services and the Office of Substance Abuse shall consult with the Center for Substance Abuse Treatment of the federal Department of Health and Human Services and representatives of the medical and substance abuse treatment field to design and implement the treatment project and to evaluate the effectiveness of the treatment programs and the treatment project. Indices for evaluation may include, but are not limited to, reduced drug dependency, work force participation, impact on law enforcement and cost effectiveness.

10. Reports. The Department of Human Services and the Office of Substance Abuse shall submit reports to the joint standing committee of the Legislature having jurisdiction over human resource matters annually beginning on or before January 31, 1996 and at the end of the treatment project. The reports must include the levels of participation and status of the treatment project, the indices of evaluation developed pursuant to subsection 9, the treatment needs of narcotic-dependent people in this State and the efficacy, cost and impact on this State of long-term

methadone and other narcotic drug detoxification and maintenance treatment.

Sec. 2. 17-A MRSA §1102, sub-§1, ¶I, as amended by PL 1989, c. 924, §1, is further amended to read:

I. Unless listed or described in another schedule, all narcotic drugs, including, but not limited to, heroin (diacetylmorphine), methadone, methadone hydrochloride, levo-alpha-acetyl-methadol, or LAAM, pethidine, morphine and opium. As used in this chapter, "heroin" means any compound, mixture or preparation containing heroin;

Sec. 3. 22 MRSA §2383-B, as enacted by PL 1989, c. 384, §8, is amended to read:

§2383-B. Authorized possession by individuals; exemptions

1. Lawfully prescribed drugs. A Subject to the additional restrictions contained in subsection 4, if applicable, a person to whom or for whose use any scheduled drug, prescription drug or controlled substance has been prescribed, sold or dispensed for a legitimate medical purpose by a physician, dentist, podiatrist, pharmacist or other person acting in the usual course of professional practice and authorized by law or rule to do so, and the owner or the person having the custody or control of any animal for which any scheduled drug, prescription drug or controlled substance has been prescribed, sold or dispensed for a legitimate veterinary medical purpose by a licensed veterinarian; acting in the usual course of professional veterinary practice may lawfully possess the drug or substance, except when in use, only in the container in which it was delivered by the person selling or dispensing the drug or substance.

2. Others lawfully in possession. The Except as otherwise authorized or restricted, the following persons are authorized to possess and have control of scheduled or prescription drugs or controlled substances:

A. Common carriers or ~~warehousemen~~ warehouse operators 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 while acting within the scope of their employment or agency; ~~and~~

C. Persons whose possession is for the purpose of aiding public officers in performing their official duties; while acting within the scope of their employment or duties;

D. Law enforcement officers while acting within the scope of their employment and official duties; and

E. Physicians, dentists, podiatrists, pharmacists or other persons authorized by law or rule to administer, dispense, prescribe or sell scheduled or prescription drugs or controlled substances, while acting within the course of their professional practice.

3. Definitions. 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," unless the context otherwise indicates, the following terms have the following meanings.

A. "Controlled substances" has the same meaning as defined in 21 United States Code, Section 812 (1970) and 21 Code of Federal Regulations, Chapter II, Part 1308.

B. "Law enforcement officer" has the same meaning as defined in Title 17-A, section 2, subsection 17.

C. "Prescription drugs" has the same meaning as defined in Title 32, section 13702, subsection 24 and includes so-called legend drugs.

D. "Scheduled drug" has the same meaning as defined in Title 17-A, chapter 45.

4. Specially restricted drugs and substances.

The possession, receipt and dispensing of scheduled or prescription drugs and controlled substances are subject to the provisions of this subsection.

A. A person may not intentionally or knowingly possess any of the following scheduled or prescription drugs or controlled substances unless the drug or substance has been prescribed, dispensed or sold by a medical practitioner expressly licensed or authorized in this State for that purpose pursuant to Title 5, section 20005, 20024 or 20075 or by rule or licensed or authorized under another state or foreign country:

(1) Methadone;

(2) Methadone hydrochloride;

(3) Levo-alpha-acetyl-methadol, also known as LAAM; and

(4) Any other scheduled or prescription drug or controlled substance as approved or specified in 21 Code of Federal Regulations, Chapter I, Part 291.

B. The possession, receipt and dispensing of drugs and substances identified in paragraph A under a prescription or authorization issued in another state or country must meet the requirements of this paragraph.

(1) A person may not possess, receive or be dispensed at any one time or in the aggregate a drug or substance in an amount greater than the amount required for maintenance of approved legitimate medical treatment for that person for 3 weeks unless authorized by a person expressly licensed or authorized in this State.

(2) The Office of Substance Abuse and the Board of Commissioners of the Profession of Pharmacy shall adopt rules governing the amount of any scheduled or prescription drug or controlled substance identified in paragraph A that may be dispensed in this State under a prescription or order issued in another jurisdiction.

Sec. 4. 32 MRSA §13723, sub-§7, ¶C is enacted to read:

C. In addition to the investigatory powers granted by this subsection to other entities, the Department of Human Services and the Office of Substance Abuse may investigate and inspect the premises of a treatment provider under the 3-year demonstration project on long-term methadone and other narcotic drug detoxification and maintenance treatment established under Title 5, section 20053 and require the production of information to determine compliance with applicable law and rules.

Sec. 5. Effective date. This Act takes effect October 15, 1995.

Effective October 15, 1995.

CHAPTER 500

H.P. 1146 - L.D. 1586

An Act to Revise the Salaries of Certain County Officers

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.