

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 4, 2002 to June 14, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 13, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 13, 2003

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
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Penmor Lithographers
Lewiston, Maine
2003

PUBLIC LAWS OF THE STATE OF MAINE
AS PASSED AT
THE FIRST REGULAR SESSION OF THE
ONE HUNDRED AND TWENTY-FIRST
LEGISLATURE
2003

CHAPTER 1

H.P. 25 - L.D. 18

**An Act to Make Corrections to Laws
in Conflict with MCJUSTIS Changes**

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

Whereas, this Act makes corrections to statutory changes enacted by the 120th Legislature that are in conflict with changes recommended by the MCJUSTIS Policy Board and enacted in Public Law 2001, chapter 383; and

Whereas, these errors create uncertainties and confusion in interpreting legislative intent; and

Whereas, it is imperative that these uncertainties be resolved as quickly as possible to prevent any injustice or hardship to the citizens of Maine; 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Sec. 1. 17-A MRSA §361, sub-§2, as amended by PL 2001, c. 426, §1, is repealed.

Sec. 2. 17-A MRSA §362, sub-§3, as repealed by PL 2001, c. 383, §52 and affected by §156 and amended by c. 389, §3, is repealed.

Sec. 3. 17-A MRSA §362, sub-§3-A, as amended by PL 2001, c. 426, §2, is repealed.

Sec. 4. 17-A MRSA §362, sub-§4, as repealed by PL 2001, c. 383, §52 and affected by §156 and amended by c. 389, §4, is repealed.

Sec. 5. 17-A MRSA §362, sub-§5, as repealed by PL 2001, c. 383, §52 and affected by §156 and amended by c. 389, §5, is repealed.

Sec. 6. 17-A MRSA §708, sub-§4, ¶¶B to D, as amended by PL 2001, c. 389, §7, are repealed.

Sec. 7. 17-A MRSA §1105-A, sub-§1, ¶¶I and J, as enacted by PL 2001, c. 667, Pt. D, §25 and affected by §36, are amended to read:

I. At the time of the offense, the person trafficks in 300 or more pills, capsules, tablets, vials, ampules, syringes or units containing any narcotic drug other than heroin, or any quantity of pills, capsules, tablets, units, compounds, mixtures or substances that, in the aggregate, contains 8,000 milligrams or more of oxycodone or 1,000 milligrams or more of hydromorphone. Violation of this paragraph is a Class A crime; or

J. At the time of the offense, the person trafficks in a quantity of 300 or more pills, capsules, tablets or units containing 3, 4-methylenedioxymethamphetamine, MDMA, or any other drug listed in section 1102, subsection 1, paragraph O. Violation of this paragraph is a Class A crime.

Sec. 8. 17-A MRSA §1105-C, sub-§1, ¶¶I and J, as enacted by PL 2001, c. 667, Pt. D, §32 and affected by §36, are amended to read:

I. At the time of the offense, the person furnishes 300 or more pills, capsules, tablets, vials, ampules, syringes or units containing any narcotic drug other than heroin, or any quantity of pills, capsules, tablets, units, compounds, mixtures or substances that, in the aggregate, contains 8,000 milligrams or more of oxycodone or 1,000 milligrams or more of hydromorphone. Violation of this paragraph is a Class B crime; or

J. At the time of the offense, the person furnishes a quantity of 300 or more pills, capsules, tablets or units containing 3, 4-methylenedioxymethamphetamine, MDMA, or any other drug listed in section 1102, subsection 1, paragraph O. Violation of this paragraph is a Class B crime.

Sec. 9. 17-A MRSA §1109, sub-§1, as repealed and replaced by PL 2001, c. 667, Pt. D, §33 and affected by §36, is amended to read:

1. A person is guilty of stealing drugs if the person violates chapter 15, ~~sections~~ section 353, 355 or ~~356~~ 356-A knowing or believing that the subject of the theft is a scheduled drug, and it is in fact a scheduled drug, and the theft is from a person authorized to possess or traffick in that scheduled drug.

Sec. 10. 17-A MRSA §1252, sub-§4-A, as repealed and replaced by PL 2001, c. 667, Pt. A, §39 and affected by §40, is amended to read:

4-A. If the State pleads and proves that, at the time any crime, excluding murder, under chapter 9, 11, 13 or 27 was committed, the defendant had been convicted of 2 or more crimes violating chapter 9, 11, 13 or 27 or essentially similar crimes in other jurisdictions, the sentencing class for the crime is one class higher than it would otherwise be. In the case of a Class A crime, the sentencing class is not increased, but the prior record must be given serious consideration by the court when imposing a sentence. Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this subsection, for violations under chapter 11, the dates of prior convictions may have occurred at any time.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect January 31, 2003.

Effective January 31, 2003.

CHAPTER 2

H.P. 372 - L.D. 483

An Act To Make Supplemental Appropriations and Allocations for the Expenditures of State Government and To Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Year Ending June 30, 2003

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

Whereas, the 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, certain obligations and expenses incident to the operation of state departments and institutions will become due and payable prior to June 30, 2003; 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:

PART A

Sec. A-1. Supplemental appropriations and allocations. There are appropriated and allocated from various funds for the fiscal year ending June 30, 2003, to the departments listed, the following sums.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF 18

Statewide Account 0016

Initiative: Provides for the deappropriation of funds resulting from the curtailment of fiscal year 2002-03 expenditures from departments and agencies statewide, as authorized by Financial Order # 06158 F3.

General Fund	2002-03
Personal Services	(\$86,292)
All Other	(19,998,213)
Capital Expenditures	(206,632)
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General Fund Total	(20,291,137)

Departmentwide 0013

Initiative: Provides for the deappropriation of salary savings from the various accounts within the Department of Administrative and Financial Services. These savings will be used to fund the 2 limited-period Special Assistant positions in the Office of Health Policy and Finance within the Governor's Office, Executive Department.

General Fund	2002-03
Personal Services	(43,356)
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General Fund Total	(43,356)

Office of the Commissioner 0718

Initiative: Deappropriates funds to achieve additional targeted savings in fiscal year 2002-03. Programs will continue operations within available funds and not create liabilities that will carry over to future years.

General Fund	2002-03
All Other	(100)
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General Fund Total	(100)