

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SEVENTH LEGISLATURE

SECOND REGULAR SESSION
January 6, 2016 to April 29, 2016

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 29, 2016

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

Augusta, Maine
2016

A person who violates this subsection is subject to those penalties specified in subsection 12.

12. Penalties. When the department determines based on clear and convincing documentary evidence that a recipient of benefits under this chapter has knowingly purchased a product or service in violation of subsection 11, that recipient is deemed to have received an overpayment in the amount of the prohibited purchase, which may be recovered by the department pursuant to chapter 1055-A. The recipient is also subject to the following additional penalties:

A. For the 1st offense, the recipient may be disqualified from receiving benefits under this chapter for a period that does not exceed 3 months;

B. For the 2nd offense, the recipient may be disqualified from receiving benefits under this chapter for a period that does not exceed 12 months; and

C. For the 3rd and subsequent offenses, the recipient may be disqualified from receiving benefits under this chapter for a period that does not exceed 24 months.

The department shall initiate an administrative hearing for a recipient of benefits who the department has determined has violated subsection 11. The notice and hearing must be conducted consistent with the department rules governing notice and hearing required for an intentional program violation.

Sec. 2. Blocking prohibited purchases through technological means. No later than October 1, 2016, notwithstanding Joint Rule 353, the Commissioner of Health and Human Services shall convene a working group, referred to in this section as "the feasibility working group," to determine feasible options for preventing Temporary Assistance for Needy Families program benefits, through electronic benefits transfer cards, from being used to purchase the prohibited products or services listed in the Maine Revised Statutes, Title 22, section 3763, subsection 11, referred to in this section as "prohibited products or services."

1. Members. The feasibility working group consists of the following members:

A. The Commissioner of Health and Human Services or the commissioner's designee;

B. Two members of the House of Representatives, including a member from each of the 2 parties holding the largest number of seats in the Legislature, appointed by the Speaker of the House;

C. Two members of the Senate, including a member from each of the 2 parties holding the largest number of seats in the Legislature, appointed by the President of the Senate; and

D. Three members appointed by the Commissioner of Health and Human Services as follows:

(1) A representative of retailers in the State;

(2) A representative of the financial industry familiar with electronic commerce; and

(3) A representative of individuals receiving cash assistance through the TANF program.

2. Duties. The feasibility working group shall research, evaluate, determine and recommend the most effective means of ensuring that electronic benefits transfer cards block at the point of sale the use of TANF benefits to purchase prohibited products or services. The feasibility working group shall determine the cost of any system that it recommends and shall analyze the impact of its recommendation on business establishments of varying sizes doing business in the State.

3. Report. The feasibility working group shall submit a report of its findings and recommendations, together with any legislation necessary to implement the recommendations, to the joint standing committee of the Legislature having jurisdiction over health and human services matters no later than December 15, 2016.

See title page for effective date.

CHAPTER 485

S.P. 602 - L.D. 1541

An Act To Increase Sentences Imposed for the Illegal Importation of Scheduled Drugs

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

Sec. 1. 15 MRSA §3314, sub-§6, as amended by PL 2003, c. 657, §1, is further amended to read:

6. Forfeiture of firearms. As part of every disposition in every proceeding under this code, every firearm that constitutes the basis for an adjudication for a juvenile crime that, if committed by an adult, would constitute a violation of section 393; Title 17-A, section 1105-A, subsection 1, paragraph C-1; Title 17-A, section 1105-B, subsection 1, paragraph C; Title 17-A, section 1105-C, subsection 1, paragraph C-1; ~~or~~ Title 17-A, section 1105-D, subsection 1, paragraph B-1; or Title 17-A, section 1118-A, subsection 1, paragraph B and every firearm used by the juvenile or any accomplice during the course of conduct for which the juvenile has been adjudicated to have committed a juvenile crime that would have been forfeited pursuant to Title 17-A, section 1158-A if the criminal conduct had been committed by an adult must be forfeited to

the State and the juvenile court shall so order unless another person satisfies the court prior to the dispositional hearing and by a preponderance of the evidence that the other person had a right to possess the firearm, to the exclusion of the juvenile, at the time of the conduct that constitutes the juvenile crime. Rules adopted by the Attorney General that govern the disposition of firearms forfeited pursuant to Title 17-A, section 1158-A govern forfeitures under this subsection.

Sec. 2. 17-A MRSA §1118, sub-§2, as enacted by PL 2001, c. 428, §1, is amended to read:

2. A violation of this section is:

A. A Class E B crime if the drug is a schedule W drug; and

B. A Class D C crime if the drug is a schedule X, Y or Z drug.

Sec. 3. 17-A MRSA §1118-A is enacted to read:

§1118-A. Aggravated illegal importation of scheduled drugs

1. A person is guilty of aggravated illegal importation of a scheduled drug if the person violates section 1118 and:

A. At the time of the offense, the person has one or more prior convictions for any Class A, B or C offense under this chapter or for engaging in substantially similar conduct to that of the Class A, B or C offenses under this chapter in another jurisdiction and the drug is:

(1) A schedule W drug. Violation of this subparagraph is a Class A crime; or

(2) A schedule X, Y or Z drug. Violation of this subparagraph is a Class B crime;

Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this paragraph, the date of each prior conviction may precede the commission of the offense being enhanced by more than 10 years;

B. At the time of the offense, the person possesses a firearm in the furtherance of the offense, uses a firearm, carries a firearm or is armed with a firearm, and the drug is:

(1) A schedule W drug. Violation of this subparagraph is a Class A crime; or

(2) A schedule X, Y or Z drug. Violation of this subparagraph is a Class B crime;

C. At the time of the offense, the person illegally imports cocaine in a quantity of 112 grams or more or cocaine in the form of cocaine base in a quantity of 32 grams or more. Violation of this paragraph is a Class A crime;

D. At the time of the offense, the person enlists or solicits the aid of or conspires with a child who is in fact less than 18 years of age to illegally import a scheduled drug and the drug is:

(1) A schedule W drug. Violation of this subparagraph is a Class A crime; or

(2) A schedule X, Y or Z drug. Violation of this subparagraph is a Class B crime;

E. At the time of the offense, the person illegally imports methamphetamine or amphetamine in a quantity of 300 or more pills, capsules, tablets or units or 100 grams or more. Violation of this paragraph is a Class A crime;

F. At the time of the offense, the person illegally imports heroin in a quantity of 6 grams or more or 270 or more individual bags, folds, packages, envelopes or containers of any kind containing heroin. Violation of this paragraph is a Class A crime;

G. At the time of the offense, the person illegally imports 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;

H. At the time of the offense, the person illegally imports 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; or

I. Death is in fact caused by the use of that scheduled drug and the drug is a schedule W drug. A violation of this paragraph is a Class A crime.

2. If a person uses a motor vehicle to facilitate the aggravated illegal importation of a scheduled drug, the court may, in addition to other authorized penalties, suspend the person's driver's license or permit or privilege to operate a motor vehicle or right to apply for or obtain a license for a period not to exceed 5 years. A suspension may not begin until after any period of incarceration is served. If the court suspends a person's driver's license or permit, privilege to operate a motor vehicle or right to apply for or obtain a license, the court shall notify the Secretary of State of the suspension and the court shall take physical custody of the person's license or permit. The Secretary of State may not reinstate the person's driver's license or permit or privilege to operate a motor vehicle or right to apply for or obtain a license unless the person demonstrates that, after having been released and discharged from

any period of incarceration that may have been ordered, the person has served the period of suspension ordered by the court.

Sec. 4. 17-A MRSA §1158-A, sub-§1, ¶A, as amended by PL 2009, c. 336, §13, is further amended to read:

A. That firearm constitutes the basis for conviction under:

- (1) Title 15, section 393;
- (2) Section 1105-A, subsection 1, paragraph C-1;
- (3) Section 1105-B, subsection 1, paragraph C;
- (4) Section 1105-C, subsection 1, paragraph C-1; ~~or~~
- (5) Section 1105-D, subsection 1, paragraph B-1; or
- (6) Section 1118-A, subsection 1, paragraph B;

Sec. 5. 17-A MRSA §1252, sub-§5-A, as amended by PL 2013, c. 133, §15, is further amended to read:

5-A. Notwithstanding any other provision of this Code, for a person convicted of violating section 1105-A, 1105-B, 1105-C, ~~or~~ 1105-D or 1118-A:

A. Except as otherwise provided in paragraphs B and C, the minimum sentence of imprisonment, which may not be suspended, is as follows: When the sentencing class is Class A, the minimum term of imprisonment is 4 years; when the sentencing class is Class B, the minimum term of imprisonment is 2 years; and, with the exception of a conviction under section 1105-A, 1105-B, 1105-C or 1105-D when the drug that is the basis for the charge is marijuana, when the sentencing class is Class C, the minimum term of imprisonment is 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 less than 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-A, 1105-B, 1105-C ~~or~~ 1105-D or 1118-A; and

(2) The court finds that:

(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 may not be suspended, is as follows: When the sentencing class is Class A, the minimum term of imprisonment is 9 months; when the sentencing is Class B, the minimum term of imprisonment is 6 months; and, with the exception of trafficking or furnishing marijuana under section 1105-A or 1105-C, when the sentencing class is Class C, the minimum term of imprisonment is 3 months.

See title page for effective date.

**CHAPTER 486
H.P. 1141 - L.D. 1670**

**An Act To Attract
Investment to Loring
Commerce Centre**

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

Sec. 1. 5 MRSA §13080-Q, sub-§1, as enacted by PL 1995, c. 644, §2, is amended to read:

1. Fund to receive income tax revenues from job creation. Subject to the provisions of subsection 2 ~~and section 13080-S,~~ the fund must receive annually from the State ~~50% the amount~~ the amount of the employment tax increment determined in accordance with section 13080-S.