

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

verified selection of food that cannot ordinarily be consumed without the use of tableware and cannot be conveniently consumed while standing or walking.

C. Malt liquor or wine sold or served on the premises may not be transported by a patron or employee of either establishment from one licensed area to another. The licensee shall ensure that easily readable signs are conspicuously posted to inform the public that transfer of alcoholic beverages from one licensed area to another is strictly prohibited.

Sec. D-10. Retroactivity. That section of this Part that enacts the Maine Revised Statutes, Title 28-A, section 10, subsection 2-B applies retroactively to September 30, 2015.

Sec. D-11. PL 2015, c. 267, Pt. OOOO, §7 is amended to read:

Sec. OOOO-7. Application date. This Part applies to sales occurring on or after January 1, 2016 except that the section of this Part that amends the Maine Revised Statutes, Title 36, section 1811, first paragraph, applies to sales occurring on or after ~~July~~, July 1, 2015 and the sections that enact Title 36, section 1760, subsections 98 and 99; apply to sales occurring on or after October 1, 2015.

Sec. D-12. Retroactivity. That section of this Part that amends Public Law 2015, chapter 267, Part OOOO, section 7 applies retroactively to June 30, 2015.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective April 27, 2016.

**CHAPTER 495
H.P. 695 - L.D. 1000**

An Act To Define Prosthetic and Orthotic Devices for Purposes of the Sales Tax Law

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

Sec. 1. 36 MRSA §1752, sub-§8-D is enacted to read:

8-D. Prescription. "Prescription" means an order, formula or recipe issued in any form of oral, written or electronic means or other means of transmission by a health care practitioner as defined in Title 24, section 2502, subsection 1-A who is licensed under Title 32.

Sec. 2. 36 MRSA §1752, sub-§9-F is enacted to read:

9-F. Prosthetic or orthotic device. "Prosthetic or orthotic device" means a replacement, corrective or supportive device, including repair and replacement parts for such device, worn on, in or next to the body to:

- A. Artificially replace a missing portion of the body;
- B. Prevent or correct physical deformity or malfunction; or
- C. Support a weak or deformed portion of the body.

Sec. 3. 36 MRSA §1760, sub-§5-A, as amended by PL 2009, c. 434, §24, is further amended to read:

5-A. Prosthetic or orthotic devices. Sale of prosthetic aids, hearing aids or eyeglasses and artificial devices designed for the use of a particular individual to correct or alleviate physical incapacity; or orthotic devices sold by prescription and sale of crutches and wheelchairs for the use of sick, injured or disabled persons and not for rental.

Sec. 4. Effective date. This Act takes effect October 1, 2016.

Effective October 1, 2016.

**CHAPTER 496
S.P. 609 - L.D. 1554**

An Act To Resolve Inconsistencies in the Drug Laws

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

Sec. 1. 17-A MRSA §1101, sub-§18, ¶C, as amended by PL 2015, c. 346, §2, is further amended to read:

C. To possess at least one gram more than 200 milligrams but less than 2 grams of heroin or at least 45 but fewer than 90 individual bags, folds, packages, envelopes or containers of any kind containing heroin; or

Sec. 2. 17-A MRSA §1101, sub-§18, ¶D, as enacted by PL 2015, c. 346, §2, is amended to read:

D. To possess at least one gram more than 200 milligrams but less than 2 grams of fentanyl powder or at least 45 but fewer than 90 individual bags, folds, packages, envelopes or containers of any kind containing fentanyl powder.

Sec. 3. 17-A MRSA §1106, sub-§3, ¶B, as amended by PL 1999, c. 531, Pt. I, §6, is further amended to read:

B. ~~Seven~~ More than 2 grams or more of cocaine or 2 grams or more of cocaine in the form of cocaine base;

Sec. 4. 17-A MRSA §1106, sub-§3, ¶E, as amended by PL 2001, c. 419, §17, is further amended to read:

E. ~~Seven grams or more~~ More than 200 milligrams of methamphetamine;

Sec. 5. 17-A MRSA §1106, sub-§3, ¶¶F and G, as enacted by PL 2001, c. 419, §18, are amended to read:

F. ~~Forty five or more~~ Any quantity of pills, capsules, tablets, vials, ampules, syringes or units containing any narcotic drug other than heroin that, in the aggregate, contains more than 200 milligrams of the narcotic drug;

G. Any quantity of pills, capsules, tablets, units, compounds, mixtures or substances that, in the aggregate, contains ~~not less than 400 more than 200~~ milligrams of oxycodone or ~~not less than 50 more than 200~~ milligrams of hydromorphone; or

Sec. 6. 17-A MRSA §1107-A, sub-§1, ¶B, as amended by PL 2015, c. 308, §2 and c. 346, §6, is repealed and the following enacted in its place:

B. Except as provided in paragraph B-1, a schedule W drug and the drug contains:

(1) Heroin (diacetylmorphine) and the amount possessed is more than 200 milligrams;

(2) Cocaine and the amount possessed is more than 2 grams;

(3) Cocaine in the form of cocaine base and the amount possessed is more than 2 grams;

(4) Oxycodone and the amount possessed is more than 200 milligrams;

(5) Hydrocodone and the amount possessed is more than 200 milligrams;

(6) Hydromorphone and the amount possessed is more than 200 milligrams;

(7) Methamphetamine and the amount possessed is more than 200 milligrams; or

(8) Fentanyl powder and the amount possessed is more than 200 milligrams.

Violation of this paragraph is a Class C crime;

Sec. 7. 17-A MRSA §1107-A, sub-§1, ¶B-1 is enacted to read:

B-1. A schedule W drug and that drug contains any of the following and at the time of the offense the person had one or more convictions for violating section 1103, 1105-A, 1105-C, 1105-E, 1106 or section 1124 or for engaging in substantially similar conduct in another jurisdiction:

(1) Heroin (diacetylmorphine);

(2) Cocaine;

(3) Cocaine in the form of cocaine base;

(4) Oxycodone;

(5) Hydrocodone;

(6) Hydromorphone;

(7) Methamphetamine; or

(8) Fentanyl powder.

Violation of this paragraph is a Class C crime;

Sec. 8. 17-A MRSA §1107-A, sub-§1, ¶C, as enacted by PL 2001, c. 383, §127 and affected by §156, is amended to read:

C. A schedule W drug, except as provided in paragraphs A and B and B-1. Violation of this paragraph is a Class D crime;

Sec. 9. 17-A MRSA §1107-A, sub-§4, as amended by PL 2011, c. 464, §19, is further amended to read:

4. It is an affirmative defense to prosecution under subsection 1, paragraph B, subparagraphs ~~(3)~~ (4) to (6); subsection 1, paragraph B-1, subparagraphs (4) to (6); and paragraphs C to F that the person possessed a valid prescription for the scheduled drug or controlled substance that is the basis for the charge and that, at all times, the person intended the drug to be used only for legitimate medical use in conformity with the instructions provided by the prescriber and dispenser.

Sec. 10. 17-A MRSA §1348-A, sub-§5 is enacted to read:

5. A deferred disposition is a preferred disposition in a prosecution for possession of schedule W drugs under section 1107-A, subsection 1, paragraphs B and B-1.

See title page for effective date.