

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 THIRTIETH LEGISLATURE

FIRST REGULAR SESSION
December 2, 2020 to March 30, 2021

FIRST SPECIAL SESSION
April 28, 2021 to July 19, 2021

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 29, 2021

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
OCTOBER 18, 2021

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

Augusta, Maine
2021

B. In determining a person's compliance with paragraph A, the department shall, to the greatest extent practicable and where consistent with the requirements of this subsection, use information available from other states that regulate the same appliances and products.

C. A person who violates paragraph A commits a civil violation for which a fine of not more than \$100 may be adjudged.

2. Exclusions; federal preemption. This section does not apply to any appliances and products listed in subsection 1, paragraph A, subparagraphs (1) to (8) that are manufactured before January 1, 2023 or that are sold or offered for sale in the State in used condition. An appliance or product listed in subsection 1, paragraph A is exempt from the prohibitions in this section and the rules adopted pursuant to this section if state regulation of the appliance or product is preempted by federal statute or regulation, for as long as that federal preemption remains in effect.

3. Rules. The department may adopt rules to prohibit the sale or offering for sale in the State of appliances or products described in subsection 1, paragraph A. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. Memorandum of understanding regarding technical assistance to consumers and businesses. The Department of Environmental Protection may enter into a memorandum of understanding or other formalized agreement with the Efficiency Maine Trust, established in the Maine Revised Statutes, Title 35-A, chapter 97, for the provision of technical assistance by the trust to consumers and businesses in the scope and application of the State's efficiency standards under Title 38, section 1613.

Sec. 3. Appropriations and allocations. The following appropriations and allocations are made.

**ENVIRONMENTAL PROTECTION,
DEPARTMENT OF**

Maine Environmental Protection Fund 0421

Initiative: Provides appropriations for one Environmental Specialist III position and associated costs.

GENERAL FUND	2021-22	2022-23
POSITIONS - LEGISLATIVE	0.000	1.000
COUNT		
Personal Services	\$0	\$85,182
All Other	\$0	\$18,000
GENERAL FUND TOTAL	\$0	\$103,182

See title page for effective date.

**CHAPTER 434
H.P. 732 - L.D. 994**

An Act To Promote Public Health by Eliminating Criminal Penalties for Possession of Hypodermic Apparatuses

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

Sec. 1. 17-A MRSA §1106, sub-§6, as amended by PL 2019, c. 12, Pt. B, §7, is further amended to read:

6. It is an affirmative defense to prosecution under this section that the substance furnished is:

A. Hemp; or,

~~B. A residual amount of any scheduled drug that is contained in one or more hypodermic apparatuses if the person is enrolled in a hypodermic apparatus exchange program that is certified by the Department of Health and Human Services, Maine Center for Disease Control and Prevention and is furnishing the hypodermic apparatuses to an employee of such a program.~~

Sec. 2. 17-A MRSA §1107-A, sub-§5, as amended by PL 2019, c. 12, Pt. B, §9, is further amended to read:

5. It is an affirmative defense to prosecution under this section that the substance furnished is:

A. Hemp; or,

~~B. A residual amount of any scheduled drug that is contained in one or more hypodermic apparatuses if the person is enrolled in a hypodermic apparatus exchange program that is certified by the Department of Health and Human Services, Maine Center for Disease Control and Prevention and is transporting the hypodermic apparatuses to the program.~~

Sec. 3. 17-A MRSA §1107-A, sub-§6 is enacted to read:

6. Unlawful possession of a scheduled drug does not include possession of a residual amount of any scheduled drug that is contained in one or more hypodermic apparatuses.

Sec. 4. 17-A MRSA §1110, as amended by PL 2007, c. 695, Pt. A, §20, is repealed.

Sec. 5. 17-A MRSA §1111, as amended by PL 2007, c. 346, Pt. B, §4, is repealed.

Sec. 6. 17-A MRSA §1111-A, sub-§1, as amended by PL 2017, c. 409, Pt. B, §6, is further amended to read:

1. As used in this section the term "drug paraphernalia" means all equipment, products and materials of any kind that are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, ~~testing, analyzing,~~ packaging, re-packaging, storing, containing, ~~or concealing, injecting, ingesting, inhaling or otherwise introducing into the human body~~ a scheduled drug in violation of this chapter or Title 22, section 2383, except that this section does not apply to a person who is authorized to possess marijuana for medical use pursuant to Title 22, chapter 558-C, to the extent the drug paraphernalia is used for that person's medical use of marijuana; to a person who is authorized to possess marijuana pursuant to Title 28-B, to the extent the drug paraphernalia is used for that person's adult use of marijuana; or to a marijuana store licensed pursuant to Title 28-B, to the extent that the drug paraphernalia relates to the sale or offering for sale of marijuana by the marijuana store. It includes, but is not limited to:

- A. Kits used or intended for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a scheduled drug or from which a scheduled drug can be derived;
- B. Kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing scheduled drugs;
- C. Isomerization devices used or intended for use in increasing the potency of any species of plant that is a scheduled drug;
- ~~D. Testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness or purity of scheduled drugs;~~
- E. Scales and balances used or intended for use in weighing or measuring scheduled drugs;
- F. Dilutants and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used or intended for use in cutting scheduled drugs;
- G. Separation gins and sifters, used or intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;
- H. Blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding scheduled drugs;
- I. Capsules, balloons, envelopes and other containers used or intended for use in packaging small quantities of scheduled drugs; and
- J. Containers and other objects used or intended for use in storing or concealing scheduled drugs; and.

~~K. Objects used or intended for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:~~

- ~~(1) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;~~
- ~~(2) Water pipes;~~
- ~~(3) Carburetion tubes and devices;~~
- ~~(4) Smoking and carburetion masks;~~
- ~~(5) Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand;~~
- ~~(6) Miniature cocaine spoons and cocaine vials;~~
- ~~(7) Chamber pipes;~~
- ~~(8) Carburetor pipes;~~
- ~~(9) Electric pipes;~~
- ~~(10) Air driven pipes;~~
- ~~(11) Chillums;~~
- ~~(12) Bongs; or~~
- ~~(13) Ice pipes or chillers.~~

Sec. 7. 17-A MRSA §1111-A, sub-§2, as enacted by PL 1981, c. 266, is amended to read:

2. For purposes of this section, drug paraphernalia does not include hypodermic ~~apparatus~~ apparatuses. ~~Possession of, furnishing or trafficking in hypodermic apparatus constitute separate offenses under sections 1110 and 1111.~~

Sec. 8. 17-A MRSA §1111-B, as enacted by PL 2019, c. 137, §1 and amended by c. 292, §1, is further amended to read:

§1111-B. Exemption from criminal liability for reporting a drug-related medical emergency or administering naloxone

A person who in good faith seeks medical assistance for or administers naloxone hydrochloride to another person experiencing a drug-related overdose and who is experiencing a drug-related overdose and is in need of medical assistance may not be arrested or prosecuted for a violation of section 1107-A, 1108, ~~1111~~ or 1111-A or a violation of probation as authorized by chapter ~~49~~ 67, subchapter 1 if the grounds for arrest or prosecution are obtained as a result of the person's seeking medical assistance, administering naloxone hydrochloride or experiencing a drug-related overdose.

Sec. 9. 17-A MRSA §1126, sub-§2, as enacted by PL 2019, c. 113, Pt. B, §17, is amended to read:

2. Mandatory minimum fine barring court finding exceptional circumstances. In addition to any other authorized sentencing alternative specified in section 1502, subsection 2 for individuals or section 1502, subsection 7 for organizations, the court shall impose a minimum fine of \$400, none of which may be suspended, except as provided in subsection 3, for an individual convicted of a crime under section 1103; 1104; 1105-A; 1105-B; 1105-C; 1105-D; 1106; 1107-A; 1108; 1109; ~~1110; 1111~~; 1111-A, subsection 4-A; 1116; 1117; or 1118.

Sec. 10. 22 MRSA §2383-B, sub-§2, as amended by PL 2013, c. 266, §§9 and 10, is further amended to read:

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

- A. Common carriers or warehouse operators while engaged in lawfully transporting or storing prescription drugs ~~or hypodermic apparatuses~~ 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;
- 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;
- 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 ~~or hypodermic apparatuses~~ while acting within the course of their professional practice; and
- ~~F. With regard to the possession or furnishing of hypodermic apparatuses, persons authorized by the Bureau of Health pursuant to a hypodermic apparatus exchange program, certified under chapter 252-A while acting within the scope of their employment under such programs; and~~
- G. Persons conducting research at a school of pharmacology that is accredited or is a candidate for accreditation in good standing.

Sec. 11. 22 MRSA §2383-B, sub-§6, as amended by PL 2015, c. 27, §1, is repealed.

Sec. 12. 32 MRSA §13787-A, sub-§3, as amended by PL 2003, c. 688, Pt. A, §39, is repealed.

Sec. 13. 32 MRSA §13787-A, sub-§4, as enacted by PL 1993, c. 394, §2, is amended to read:

4. Immunity limited. This section does not limit prosecution for violation of any law prohibiting or regulating the use, possession, dispensing, distribution or promotion of controlled substances, or scheduled drugs ~~or drug paraphernalia~~.

See title page for effective date.

**CHAPTER 435
H.P. 750 - L.D. 1012**

**An Act To Provide Funding for
the Maine Outdoor Heritage
Fund Program**

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

Sec. 1. Transfer. Notwithstanding any provision of law to the contrary, the State Controller shall transfer \$75,000 during fiscal year 2021-22 and \$75,000 during fiscal year 2022-23 from the unappropriated surplus of the General Fund to the Maine Outdoor Heritage Fund established in the Maine Revised Statutes, Title 12, section 10302.

Sec. 2. Appropriations and allocations. The following appropriations and allocations are made.

**INLAND FISHERIES AND WILDLIFE,
DEPARTMENT OF
Maine Outdoor Heritage Fund 0829**

Initiative: Provides an allocation for maintaining, improving and expanding state and local natural resource conservation programs and associated compatible public uses.

OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
All Other	\$75,000	\$75,000
OTHER SPECIAL REVENUE FUNDS TOTAL	\$75,000	\$75,000

See title page for effective date.
