

MAINE STATE LEGISLATURE

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**STATE OF MAINE
119TH LEGISLATURE**

FIRST REGULAR SESSION

**BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
CRIMINAL JUSTICE**

JULY 1999

MEMBERS:

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Sen. William B. O'Gara
Sen. Paul T. Davis*

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ONE HUNDRED NINETEENTH LEGISLATURE
FIRST REGULAR SESSION

Summary Of Legislation Before The Joint Standing and Select Committees
August 1999

We are pleased to provide this summary of all bills that were considered by the Joint Standing and Select Committees of the Maine Legislature this past session. The document is a compilation of bill summaries which describe each bill and relevant amendments, as well as the final action taken. Also included are statistical summaries of bill activity this session for the Legislature and each of its joint standing and select committees.

The document is organized for convenient reference to information on bills considered by the committees. It is organized by committees and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet (www.state.me.us/legis/opla).

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

CARRIED OVER.....Bill carried over to Second Regular Session
CON RES XXX..... Chapter # of Constitutional Resolution passed by both Houses
CONF CMTE UNABLE TO AGREE.....Committee of Conference unable to agree; bill died
DIED BETWEEN BODIES.....House & Senate disagree; bill died
DIED IN CONCURRENCE..... One body accepts ONTP report; the other indefinitely postpones the bill
DIED ON ADJOURNMENT.....Action incomplete when session ended; bill died
EMERGENCY..... Enacted law takes effect sooner than 90 days
ENACTMENT FAILED..... Bill failed to get vote required for enactment or final passage
NOT PROPERLY BEFORE THE BODY..... Ruled out of order by the presiding officers; bill died
INDEF PP.....Bill Indefinitely Postponed
ONTP..... Ought Not To Pass report accepted
OTP ND..... Committee report Ought To Pass In New Draft
OTP ND/NT..... Committee report Ought To Pass In New Draft/New Title
P&S XXX..... Chapter # of enacted Private & Special Law
PUBLIC XXX..... Chapter # of enacted Public Law
RESOLVE XXX..... Chapter # of finally passed Resolve
UNSIGNED.....Bill held by Governor
VETO SUSTAINED.....Legislature failed to override Governor's Veto

Please note the effective date for all non-emergency legislation enacted in the First Regular Session (unless otherwise specified in a particular law) is September 18, 1999.

drug prosecution cases that otherwise must remain open until the convening of the affected municipalities' town meetings.

LD 2011, An Act to Amend the Laws Regarding Asset Forfeiture, Public Law 1999, chapter 408 incorporates the changes proposed in LD 2003.

LD 2009

An Act to Redefine Trafficking and Furnishing of Heroin in Terms of the Amount of the Drug Possessed

PUBLIC 453

Sponsor(s)
SCHNEIDER

Committee Report
OTP-AM

Amendments Adopted
H-456

LD 2009 proposed to bring the treatment of heroin into conformity with the treatment of other similarly dangerous drugs under the criminal code and eliminate the concept of "presumption" as to intent. The bill proposed that the definition of "trafficking" include the possession of 2 or more grams or 90 or more packets of heroin with no further proof of intent needed. The bill proposed to amend the definition of "furnishing" to include the possession of one or more but less than 2 grams or 45 or more but less than 90 packets of heroin with no further proof of intent required. The bill does not propose to change current law in that possession of any amount of heroin with the intent to do any act in the Maine Revised Statutes, Title 17-A, section 1101, subsection 17, paragraph C continues to be "trafficking" and possession of any amount of heroin with the intent to do any act in Title 17-A, section 1101, subsection 18, paragraph A continues to be "furnishing." The bill also proposed to provide for the trafficking of 4 or more grams or more than 180 packets of heroin to be included in the offense of aggravated trafficking in or furnishing of scheduled drugs, also to bring the treatment of heroin in line with the treatment of cocaine and cocaine base. The amounts of heroin referred to in the bill, 45, 90 and 180 packets, relate to the common practice of selling heroin in increments of 50 packets and the tendency of addict-traffickers to consume several packets of the drug during the trip from the source city, usually out of state, to their place of residence in Maine.

Committee Amendment "A" (H-456) proposed to change from 4 grams to 6 grams and from 180 bags to 270 bags the amount of heroin required for aggravated trafficking or furnishing. The amendment also proposed to add a fiscal note to the bill.

Enacted law summary

Public Law 1999, chapter 453 brings the treatment of heroin into conformity with the treatment of other similarly dangerous drugs under the criminal code and eliminates the concept of "presumption" as to intent. Public Law 1999, chapter 453 provides for the definition of "trafficking" to include the possession of 2 or more grams or 90 or more packets of heroin with no further proof of intent needed. The definition of "furnishing" is amended to include the possession of one or more but less than 2 grams or 45 or more but less than 90 packets of heroin with no further proof of intent required. Public Law 1999, chapter 453 does not change current law in that possession of any amount of heroin with the intent to do any act in the Maine Revised Statutes, Title 17-A, section 1101, subsection 17, paragraph C continues to be "trafficking" and possession of any amount of heroin with the intent to do any act in Title 17-A, section 1101, subsection 18, paragraph A continues to be "furnishing." Public Law 1999, chapter 453 also provides for the trafficking of 4 or more grams or more than 180 packets of heroin to be included in the offense of aggravated trafficking in or furnishing of scheduled drugs, also to bring the treatment of heroin in line with the treatment of cocaine and cocaine base.

Note: LD 2255, An Act to Make Corrections to Laws Recently Enacted by the 119th Legislature, Public Law 1999, chapter 531 corrects conflicts that were created when P. L. 1999, c. 453 and other drug laws were enacted simultaneously.

LD 2011

An Act to Amend the Laws Regarding Asset Forfeiture

PUBLIC 408

<u>Sponsor(s)</u> SCHNEIDER		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-619
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LD 2011 proposed to provide that property subject to forfeiture may be proceeded against by complaint in District Court. The bill also proposed to provide that the court may order forfeiture of as much property as is appropriate to a municipality, county or state agency that has made a substantial contribution to the investigation or prosecution of a related criminal case.

Committee Amendment "A" (H-619) proposed to add language to allow the municipal officers, instead of voters at a town meeting, to accept forfeited assets conveyed to a municipality by a court of law. The amendment also proposed to allow the Attorney General as well as the Governor to approve the transfer of title of property in order to transfer a forfeited asset which will expedite the closing of drug prosecution cases. The amendment also proposed to add a fiscal note to the bill.

Enacted law summary

Public Law 1999, chapter 408 expedites the closing of drug prosecution cases by:

1. Providing that property subject to forfeiture may be proceeded against by complaint in District Court;
2. Providing that the court may order forfeiture of as much property as is appropriate to a municipality, county or state agency that has made a substantial contribution to the investigation or prosecution of a related criminal case;
3. Allowing the municipal officers to accept forfeited assets conveyed to a municipality by a court of law; and
4. Allowing the Attorney General to approve the transfer of title of property in order to transfer a forfeited asset.

LD 2012

**An Act to More Accurately Describe the Criminal Conduct Committed
When a Person Grows or Cultivates Marijuana**

PUBLIC 374

<u>Sponsor(s)</u> SCHNEIDER		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-561
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LD 2012 proposed to create the new crime of marijuana cultivation and eliminate the inclusion of growing or cultivating marijuana under the crime of trafficking. As proposed, the penalties for the new crime of marijuana cultivation are the same as they had been when included under the offense of trafficking. As proposed, marijuana cultivation is treated the same as trafficking for purposes of aggravation of charges under the Maine Revised Statutes, Title 17-A, section 1105.

Committee Amendment "A" (H-561) proposed to clarify that only the cultivation of marijuana is excepted from the crime of trafficking. The amendment proposed to specify that a person who grows or cultivates 5 or fewer plants is guilty of a Class E crime. The amendment also proposed to add a fiscal note to the bill.

Enacted law summary