

MAINE STATE LEGISLATURE

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*State Of Maine
121st Legislature*

First Regular Session

Bill Summaries

*Joint Standing Committee
on
Criminal Justice and Public Safety*

July 2003

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Maine State Legislature



Office Of Policy And Legal Analysis Office Of Fiscal And Program Review

121st Maine Legislature First Regular Session

Summary Of Legislation Before The Joint Standing Committees

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing and joint 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 committees.

The document is organized for convenient reference to information on bills considered by the committees. It is arranged alphabetically by committee name 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:

<i>CARRIED OVER PURSUANT TO HP 1212</i>	<i>Bills carried over to the 2nd Regular Session</i>
<i>CON RES XXX</i>	<i>Chapter # of Constitutional Resolution passed by both Houses</i>
<i>CONF CMTE UNABLE TO AGREE</i>	<i>Committee of Conference unable to agree; bill died</i>
<i>DIED BETWEEN BODIES</i>	<i>House & Senate disagree; bill died</i>
<i>DIED IN CONCURRENCE</i>	<i>One body accepts ONTP report; the other indefinitely postpones the bill</i>
<i>DIED ON ADJOURNMENT</i>	<i>Action incomplete when session ended; bill died</i>
<i>EMERGENCY</i>	<i>Enacted law takes effect sooner than 90 days</i>
<i>FAILED EMERGENCY ENACTMENT/FINAL PASSAGE</i>	<i>Emergency bill failed to get 2/3 vote</i>
<i>FAILED ENACTMENT/FINAL PASSAGE</i>	<i>Bill failed to get majority vote</i>
<i>FAILED MANDATE ENACTMENT</i>	<i>Bill imposing local mandate failed to get 2/3 vote</i>
<i>NOT PROPERLY BEFORE THE BODY</i>	<i>Ruled out of order by the presiding officers; bill died</i>
<i>INDEF PP</i>	<i>Bill Indefinitely Postponed</i>
<i>ONTP</i>	<i>Ought Not To Pass report accepted</i>
<i>OTP-ND</i>	<i>Committee report Ought To Pass In New Draft</i>
<i>P&S XXX</i>	<i>Chapter # of enacted Private & Special Law</i>
<i>PASSED</i>	<i>Joint Order passed in both bodies</i>
<i>PUBLIC XXX</i>	<i>Chapter # of enacted Public Law</i>
<i>RESOLVE XXX</i>	<i>Chapter # of finally passed Resolve</i>
<i>UNSIGNED</i>	<i>Bill held by Governor</i>
<i>VETO SUSTAINED</i>	<i>Legislature failed to override Governor's Veto</i>

Please note that the effective date for all non-emergency legislation enacted in the First Regular Session (unless otherwise specified in a particular law) is September 13, 2003.

David C. Elliott, Director
Offices located in Room 215 of the Cross Office Building

LD 944

**An Act To Increase Penalties for Furnishing or Trafficking
Scheduled Drugs That Cause Death or Serious Bodily Injury**

PUBLIC 476

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BUNKER HATCH PH	OTP-AM	H-157 S-93 MARTIN

LD 944 proposed to increase the penalties for trafficking or furnishing schedule W drugs or a counterfeit scheduled drug when death or serious bodily injury resulted from the use of the drug, as in cases of accidental overdoses. Specifically, the bill proposed to:

1. Make it a Class A crime with the possibility of a 4-year mandatory minimum sentence when death occurred from the aggravated trafficking of a schedule W drug;
2. Make it a Class B crime with the possibility of a 2-year mandatory minimum sentence when death occurred from the aggravated furnishing of a schedule W drug, when serious bodily injury occurred from aggravated trafficking of a schedule W drug or when death or serious bodily injury occurred from the aggravated trafficking or aggravated furnishing of a counterfeit scheduled drug; and
3. Make it a Class C crime when serious bodily injury occurred from the aggravated furnishing of a schedule W drug.

Schedule W drugs include those whose use is most likely to result in a fatal overdose, such as heroin, cocaine and prescription narcotic pills. Counterfeit drugs are those substances, sometimes sold as illegal drugs that are capable of causing death or serious bodily injury, such as poisons or chemical agents. The bill's proposed changes would have been added to the list of existing aggravating circumstance that already provide for increased penalties (i.e., furnishing or trafficking within 1,000 feet of a school or to a child under 18 years of age). The death or serious bodily injury need not have been reasonably foreseeable by the defendant; it would have been sufficient if the death would not have happened but for the use of the drug, either alone or concurrently with another cause, unless the concurrent cause was clearly sufficient to produce the result, and the conduct of the defendant was clearly insufficient.

Committee Amendment "A " (H-157) proposed to provide for an affirmative defense if the defendant believed that death or serious bodily injury was not reasonably foreseeable from the use of the lawfully possessed scheduled drug that was unlawfully furnished. The affirmative defense would have been available only when a prescription medication was lawfully prescribed to the defendant, the defendant unlawfully furnished the medication without payment or other consideration and death or serious bodily injury resulted that was not reasonably foreseeable. In assessing whether the death or serious bodily injury was foreseeable, a jury would have had to consider the factual circumstances surrounding the furnishing, the total quantity of the drug furnished, the dosage of the units furnished, the nature of the drug, the overdose risk presented by its use and any safety warnings provided to the defendant at the time of dispensing.

This amendment also proposed to add a fiscal note.

Senate Amendment "A " (S-93) was proposed on behalf of the Committee on Engrossed Bills. It proposed to change the provision regarding an affirmative defense for a defendant who believed that death was not

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reasonably foreseeable from the use of a lawfully possessed scheduled drug that was unlawfully furnished in order to be consistent with the legislative intent.

Enacted Law Summary

Public Law 2003, chapter 476 increases the penalties for trafficking or furnishing schedule W drugs or a counterfeit scheduled drug when death or serious bodily injury results from the use of the drug, as in cases of accidental overdoses. The law does the following:

1. Makes it a Class A crime with the possibility of a 4-year mandatory minimum sentence when death occurs from the aggravated trafficking of a schedule W drug;
2. Makes it a Class B crime with the possibility of a 2-year mandatory minimum sentence when death occurs from the aggravated furnishing of a schedule W drug, when serious bodily injury occurs from aggravated trafficking of a schedule W drug or when death or serious bodily injury occurs from the aggravated trafficking or aggravated furnishing of a counterfeit scheduled drug; and
3. Makes it a Class C crime when serious bodily injury occurs from the aggravated furnishing of a schedule W drug.

The changes add such situations to the existing list of aggravating circumstances that already provide for increased penalties, such as furnishing or trafficking within 1,000 feet of a school or to a child under 18 years of age. The death or serious bodily injury need not be reasonably foreseeable by the defendant; it is sufficient if the death would not have happened but for the use of the drug, either alone or concurrently with another cause, unless the concurrent cause was clearly sufficient to produce the result, and the conduct of the defendant was clearly insufficient.

Public Law 2003, chapter 476 provides for an affirmative defense if the defendant believed that death or serious bodily injury was not reasonably foreseeable from the use of the lawfully possessed scheduled drug that was unlawfully furnished. The affirmative defense would be available only when a prescription medication was lawfully prescribed to the defendant, the defendant unlawfully furnished the medication without payment or other consideration and death or serious bodily injury resulted that was not reasonably foreseeable. In assessing whether the death or serious bodily injury was foreseeable, a jury shall consider the factual circumstances surrounding the furnishing, the total quantity of the drug furnished, the dosage of the units furnished, the nature of the drug, the overdose risk presented by its use and any safety warnings provided to the defendant at the time of dispensing.

LD 949

An Act To Eliminate the 6 Regional Emergency Medical Services Councils and To Transfer Authority and Funding to the Technical Colleges in Each Region

ONTP

Sponsor(s)
BLANCHETTE
CARPENTER

Committee Report
ONTP

Amendments Adopted

LD 949 proposed to eliminate the current 6 regional emergency medical services councils and transfer the authority and funding to the technical colleges in each region.